

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	:	
	:	Jointly Administered
KAISER ALUMINUM CORPORATION,	:	Case No. 02-10429 (JKF)
a Delaware corporation, <u>et al.</u>,	:	
	:	Chapter 11
Debtors.	:	

**CONSENT DECREE
RELATING TO MEAD ALUMINUM REDUCTION WORKS**

WHEREAS, on February 12, 2002, fifteen of the above-captioned debtors and debtors in possession (collectively with the other above-captioned debtors and debtors in possession, the "Debtors") commenced their respective reorganization cases by filing with the United States Bankruptcy Court for the District of Delaware (the "Court") voluntary petitions for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code"). On March 15, 2002, two additional Debtors commenced their voluntary chapter 11 cases. The remaining nine Debtors commenced their voluntary chapter 11 cases on January 14, 2003. The Debtors' chapter 11 cases have been consolidated for procedural purposes and are being administered jointly, styled *In re Kaiser Aluminum Corporation, et al.*, Case No. 02-10429 (JKF) (the "Bankruptcy Cases");

WHEREAS, one of the Debtors and debtor-in-possession, Kaiser Aluminum & Chemical Corporation ("KACC") owns certain real property located in Mead, Washington, as

legally described in Exhibit A attached hereto, which consists of (i) an approximately twenty-five (25) acre pile of spent potlining, solid waste rubble and butt tailings that KACC consolidated and covered pursuant to Washington State Department of Ecology Order DE 01-TCPIS-2075 and (ii) an approximately twenty-five (25) acre existing wet scrubber sludge bed adjacent thereto (collectively the "Site");

WHEREAS, cyanide and fluoride contamination exists in soil and groundwater below the Site and a groundwater plume contaminated with cyanide and fluoride extends northwest from the Site for approximately two and one half miles to where it enters the Little Spokane River. Due to such contamination, the United States Environmental Protection Agency ("EPA") placed the Site on the National Priorities List in 1983, listing it as the Kaiser Aluminum (Mead Works) site and assigning it EPA Site ID # WAD000065508;

WHEREAS, KACC has taken interim actions to address contamination at and originating from the Site, including construction of an alternative water supply for residents with contaminated wells, investigation of the nature and extent of contamination, completion of a Feasibility Study, completion of an engineering design report, construction of a double-lined cap over the spent potlining and rubble pile, and slip-lining of sewer lines that were a potential source of water infiltration at the Site;

WHEREAS, KACC also owned a smelter facility near the Site known as the Mead Aluminum Reduction Works;

WHEREAS, the Court approved the sale of the Mead Aluminum Reduction Works facility but not including the Site (hereafter "Mead Aluminum Reduction Works") and

the Court's Order approving the sale provided that 'Nothing in this Order or the Court's approval of the Purchase and Sale Agreement releases, nullifies or enjoins the enforcement of any liability of the Buyer (or the Buyer's successors, assigns, or lessees) to a governmental unit under police or regulatory statutes to which the Buyer (or the Buyer's successors, assigns, or lessees) may be subject as the owner or operator of the Property, provided, however, that this Order shall have no effect upon any defense to such liability as may arise under law, including but not limited to potential status as a bona fide prospective purchaser";

WHEREAS, on June 2, 2004, the Mead Aluminum Reduction Works was conveyed to CDC Mead, LLC;

WHEREAS, the United States, on behalf of the EPA, filed a proof of claim, Claim No. 7135, against the Debtors ("Claim No. 7135") pursuant to which the United States, among other things, asserts a claim of \$149,853 for past response costs with respect to the Mead Aluminum Reduction Works and/or the Site and which also asserts a protective claim with respect to the Debtors' alleged injunctive obligation to perform future work requirements to cleanup the Mead Aluminum Reduction Works and/or the Site;

WHEREAS, the State of Washington, at the request of the Washington State Department of Ecology ("Ecology"), filed a protective proof of claim, Claim No. 7181, against the Debtors ("Claim No. 7181") with respect to the Debtors' alleged injunctive obligation to perform future remedial action associated with releases and threatened releases of hazardous substances into the environment from the Mead Aluminum Reduction Works and/or the Site;

WHEREAS, on or about October 27, 2003, the Court entered an Order (D.I. 2791) approving a consent decree settling environmental claims and causes of action of the United States, the States of California, Rhode Island and Washington and the Puyallup Tribe of Indians (the "Multi-Site CD"), which settles, without admission of liability, several environmental claims and causes of action against Debtors but does not address or apply to the Mead Aluminum Reduction Works or the Site or other "Reserved Sites" as defined in the Multi-Site CD;

WHEREAS the Debtors would dispute the United States' and the State of Washington's contentions and would object, in whole or in part, to their proofs of claim;

WHEREAS the Debtors seek, to the maximum extent permitted by law, to obtain protection, through the resolution of environmental liabilities for the Site and the Mead Aluminum Reduction Works, as set forth herein, from and against all Claims that have been or may in the future be asserted for response costs;

WHEREAS, the United States on behalf of EPA, the State of Washington at the request of Ecology, and the Debtors, without admission of liability by any party, desire to resolve their differences with respect to the Site and with respect to Claim No. 7135 and Claim No. 7181 as the same pertain to the Site and the Mead Aluminum Reduction Works;

WHEREAS in consideration of, and in exchange for, the promises and covenants herein, including, without limitation, the covenants not to sue set forth in Paragraphs 29 and 33 and, subject to the provisions of Paragraphs 30 through 32, and intending to be legally bound

hereby, the Debtors, the United States on behalf of EPA and the State of Washington hereby agree to the terms and provisions of this Consent Decree;

WHEREAS settlement of the matters governed by this Consent Decree is in the public interest and an appropriate means of resolving these matters and will lead to a more expeditious cleanup of hazardous substances in compliance with federal and state laws and regulations, including the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607, et seq., and Washington's Model Toxics Control Act ("MTCA"), Wash. Rev. Code ch. 70.105D, including cleanup standards under Wash. Rev. Code § 70.105D.030(2)(e).

NOW, THEREFORE, without the admission of liability or any adjudication on any issue of fact or law, and upon the consent and agreement of the Parties by their attorneys and authorized officials, it is hereby agreed as follows:

DEFINITIONS

1. In this Agreement, in addition to the capitalized terms defined in the preamble above, the following terms shall have the following meanings:

A. "CERCLA" refers to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.*, as now in effect or hereafter amended.

B. "Claims" has the meaning provided in Section 101(5) of the Bankruptcy Code.

C. "Court" means the United States Bankruptcy Court for the District of Delaware. In the event that a dispute under this Decree is transferred to the United States

District Court for the Eastern District of Washington pursuant to Paragraph 25.C, such District Court shall be the "Court" for all matters relating to such dispute for so long as such Court retains jurisdiction over such dispute.

D. "Custodial Trust" means the trust established pursuant to the Custodial Trust Agreement, known as the Mead SPL Site Custodial Trust.

E. "Custodial Trust Agreement" means the Custodial Trust Agreement that KACC and the Custodial Trustee shall enter into upon or promptly following the Effective Date, attached hereto as **Exhibit B**.

F. "Custodial Trust Parties" has the meaning given in Paragraph 15.

G. "Custodial Trustee" means Daniel J. Silver, not individually, but solely in the representative capacity of Custodial Trustee, and any successor thereto chosen in accordance with the Custodial Trust Agreement.

H. "Ecology" means the Washington Department of Ecology and any successor departments or agencies of the State of Washington.

I. "Effective Date" means ten days after the date on which this Consent Decree and KACC's entry into the Custodial Trust Agreement are approved by the Court, unless stayed by the Court.

J. "EPA" means the United States Environmental Protection Agency and any successor departments or agencies of the United States.

K. "Governmental Parties" means Ecology and EPA.

- L. "Insurance Company" means American International Specialty Lines Insurance Company and its successors, assigns, affiliated companies, and reinsurers.
- M. "Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substance Superfund established under Subchapter A of Chapter 98 of Title 26 of the U.S. Code, compounded on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).
- N. "Mead Additional Sites" has the meaning given in Paragraph 36.
- O. "Mead Aluminum Reduction Works" means the facility conveyed by KACC to CDC Mead, LLC on June 2, 2004.
- P. "MTCA" means the Washington State Model Toxics Control Act, RCW 70.105D.
- Q. "Parties" mean the Debtors, the State of Washington, Ecology, the United States on behalf of EPA, Daniel J. Silver in his capacity as Custodial Trustee, and Insurance Company.
- R. "Oversight Agency" means the Governmental Party that is serving as the lead agency overseeing implementation of the Consent Decree and the SOW. As of the Effective Date, the Oversight Agency will be Ecology. The Governmental Parties may mutually agree to change the agency serving as Oversight Agency, but if they do so, they must promptly notify the Custodial Trust and Insurance Company of such change.

S. "Plan of Reorganization" or "Plan" means any plan of reorganization that includes KACC and is confirmed and becomes effective in the Bankruptcy Cases.

T. "Policy" has the meaning given in Paragraph 6.

U. "RAP" has the meaning given in Paragraph 6.

V. "RCRA" refers to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* as now in effect or hereafter amended.

W. "Response Actions" mean response actions taken pursuant to CERCLA and or remedial actions taken pursuant to MTCA.

X. "Scheduled Contractor" has the meaning given in Paragraph 12.

Y. "Site" means certain real property located in Mead, Washington, as legally described in Exhibit A attached hereto, which consists of (i) an approximately twenty-five (25) acre pile of spent potlining, solid waste rubble and butt tailings that KACC consolidated and covered pursuant to Washington State Department of Ecology Order DE 01-TCPIS-2075 and (ii) an approximately twenty-five (25) acre existing wet scrubber sludge bed adjacent thereto.

Z. "SOW" has the meaning given in Paragraph 4.A and includes the RAP.

AA. "Support Agency" means the Governmental Party that is not serving as the Oversight Agency.

JURISDICTION

2. The Court has jurisdiction over the subject matter hereof pursuant to 28 U.S.C. §§157, 1331, and 1334, and 42 U.S.C. §§9607 and 9613(b) and RCW 70.105D.040(4)(b). The

Court also has personal jurisdiction over the Debtors, the Custodial Trust, the Governmental Parties, and Insurance Company.

PARTIES BOUND; SUCCESSION AND ASSIGNMENT

3. This Consent Decree applies to, is binding upon, and shall inure to the benefit of the United States, the State of Washington, the Debtors, the Debtors' legal successors and assigns, the Custodial Trust, the Custodial Trust Parties, the Insurance Company, the Insurance Company's legal successors and assigns, and any trustee, examiner or receiver appointed in the Bankruptcy Cases.

FORMATION AND PURPOSES OF CUSTODIAL TRUST

4. A. Within ten (10) business days following the Effective Date and pursuant to the Custodial Trust Agreement, KACC shall establish a Custodial Trust, the purposes of which will be to: own and take title to the Site; carry out administrative functions related to the Site; manage and/or fund implementation of activities at the Site consistent with and pursuant to the terms of this Consent Decree and the Scope of Work ("SOW") attached hereto as Exhibit C; and, if possible, sell, lease or otherwise dispose of the Site as provided in the Custodial Trust Agreement.

B. Assets of the Custodial Trust Account shall be held in trust solely for this purpose and the administration of the Custodial Trust. The Governmental Parties shall be sole beneficiaries of the Custodial Trust Account. The Custodial Trust shall at all times seek to treat the Custodial Trust Account it is holding as Qualified Settlement Funds pursuant to Treasury Regulations under Section 468B of the Internal Revenue Code. The Custodial Trustee shall use

the Custodial Trust Account to implement or fund activities at the Site consistent with the SOW and the administrative costs of the Custodial Trust approved by the Governmental Parties.

C. The Custodial Trust Agreement shall provide that upon formation of the Custodial Trust, it assumes and agrees to perform all of the duties and obligations, and inures to all of the rights, of the Custodial Trust set forth in this Consent Decree.

5. Contributions to the Custodial Trust shall be made as follows:

A. Within ten (10) business days of the Effective Date, KACC shall transfer all rights, title and interest in and to the Site to the Custodial Trust.

B. Within ten (10) business days of the Effective Date, and simultaneously with the transfer of the Site under Paragraph 5A, the Debtors shall deposit into the Custodial Trust Account \$2,250,000.00 (Two Million Two Hundred And Fifty Thousand Dollars) to establish the Custodial Trust Account and to fund activities at the Site, consistent with this Consent Decree and the SOW.

C. In the event that the payment by KACC required by Paragraph 5.B is not made within ten (10) business days of the Effective Date, KACC shall pay Interest on the unpaid balance. The Interest to be paid on the amount due under Paragraph 5.B shall begin to accrue on the eleventh (11th) business days after the Effective Date. The Interest shall accrue through the date of KACC's payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the Governmental Parties by virtue of KACC's failure to make timely payments under this Section.

D. KACC shall send copies of all correspondence and other evidence of any transmittal of funds under this Paragraph to the Governmental Parties as specified in Paragraph 37 (Notices and Submissions).

E. While none of the Debtors has or shall have any obligation to pursue insurance recovery, including by virtue of this Consent Decree, and subject to the same terms and conditions as set forth in Paragraphs 5.C and 5.D of the Multi-Site CD and the limitations of this Paragraph, to the extent that at any time after the Effective Date, Debtors pursue from their insurers recovery for environmental costs or payments under liability coverage applicable to property damage liability and obtain insurance proceeds for such costs or payments from such coverage on account of the Site or the Mead Aluminum Reduction Works in excess of Debtors' costs of pursuing such recovery ("Excess Recovery"), Debtors may retain 60% of the Excess Recovery and Debtors shall pay 40% of the Excess Recovery to the Custodial Trust.

F. Within ten (10) business days of the Effective Date, and simultaneously with the transfer of the Site under Paragraph 5A, KACC shall cause an easement to be recorded, substantially in the form of Exhibit D attached hereto, granting the Custodial Trust and the Governmental Parties access to the Easement Area identified in Exhibit D to carry out Response Actions, including environmental monitoring.

6. A. Within ten (10) business days of the Effective Date, the Debtors shall fully fund the Mead Clean-Up Cost Cap Finite Insurance Policy ("Policy"), attached hereto as Exhibit E, naming the Custodial Trust as the Named Insured and the Governmental Parties as Additional Insureds. The Policy shall provide the funding necessary to complete the tasks specified in the Remedial Action Plan ("RAP"), attached hereto as Exhibit 1 to the SOW, up to the Policy limits

of \$18,000,000.00 (Eighteen Million Dollars), for at least 30 years, subject to the terms and conditions of the Policy. The amount necessary to fully fund the Policy is \$4,600,000.00 (Four Million Six Hundred Thousand Dollars) plus applicable taxes. The Policy shall provide that upon termination of the Policy, any fund balance remaining in the Policy's Commutation Account shall be paid to the Custodial Trust.

B. In the event that the payment by KACC required by Paragraph 6.A is not made within ten (10) business days of the Effective Date, KACC shall pay Interest on the unpaid balance. The Interest to be paid on the amount due under Paragraph 6.A shall begin to accrue on the eleventh (11th) business days after the Effective Date. The Interest shall accrue through the date of KACC's payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the Governmental Parties by virtue of KACC's failure to make timely payments under this Section.

C. KACC shall send copies of all correspondence and other evidence of any transmittal of funds under this Paragraph to the Governmental Parties as specified in Paragraph 37 (Notices and Submissions).

7. The transfer of the Site to the Custodial Trust shall be by quitclaim deed, in "as is, where is" condition, subject to all liens and encumbrances, and shall be recorded in appropriate Spokane County, Washington deed records indicating the ownership of the Site by the Custodial Trust. Upon the transfer of the Site to the Custodial Trust, KACC shall no longer be nor shall be deemed to be an owner or operator of the Site. Upon the Effective Date and following the contribution of the assets described in Paragraphs 5 and 6 above, (i) KACC shall have no interest in, or with respect to, any Custodial Trust Assets (as defined in the Custodial Trust Agreement),

and (ii) neither the Debtors nor any successors thereto shall have any further obligation to provide any funding to the Custodial Trust. Neither the United States, the State of Washington, EPA, Ecology, Insurance Company nor the Debtors shall be or be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer or director of the Custodial Trust. The Custodial Trust and the Custodial Trust Parties shall not be deemed to be successors to any liabilities of Debtors and shall have no liability for any liability that Debtors may have to any third parties.

8. After funding the Policy as provided in Paragraph 6 above, the Debtors shall have no interest in, or with respect to, the Policy, any control over the Policy, or any rights or obligations in connection with the Policy.

9. Insurance Company is a party to this Consent Decree solely for purposes of providing financial assurances to the extent set forth in the Policy. After receiving the payment specified in Paragraph 6 above, Insurance Company shall issue the Policy and shall make payments and perform other obligations as provided in the Policy. In the event that Insurance Company does not fulfill its obligations under the Policy and the Consent Decree, the Trust or the Governmental Parties may seek appropriate relief and any other appropriate sanctions or remedies from the Court as provided in this Consent Decree, the Policy and at law. Insurance Company is not obligated to perform any of the actions required of the Trust under this Consent Decree or the SOW, nor is Insurance Company assuming any liability under this Consent Decree except that which is assumed by operation of the Policy. Insurance Company is not required to participate in the dispute resolution procedures contained in Paragraphs 22-26 of this Consent Decree except to the extent Insurance Company elects to participate. However, the dispute resolution procedures in Paragraphs 22-26 shall apply to, and Insurance Company shall participate in, any dispute

initiated by a Governmental Party regarding the voiding or cancellation of the Policy and any dispute between Insurance Company and any Governmental Parties. Further, in the event of any dispute over whether Insurance Company must under the Policy pay for work requested by the Oversight Agency where the issue in dispute is whether the RAP permits the Oversight Agency to require the Custodial Trust to perform the requested work, such dispute shall be governed by the dispute resolution procedures contained in Paragraphs 22-26. Such dispute may be initiated by the Custodial Trustee or a Governmental Party, and Insurance Company may at its discretion elect to join the dispute by providing written notice during the informal dispute resolution period, but in the event the Insurance Company does not so elect, Insurance Company shall be bound by the outcome to the same extent as the Custodial Trust. In any instance where the Insurance Company elects to join a dispute it shall be considered a party for purposes of this Consent Decree. Insurance Company has no obligations under the Consent Decree or the Policy until the policy premium has been paid in full.

10. Holders of Claims against the Debtors, other than Ecology and EPA, shall have no rights against the Custodial Trust. The Debtors hereby represent that there are no Claims pending or, to the Debtors' knowledge, threatened against the Debtors relating to the release or threatened release of hazardous substances from the Site, except as follows: (i) Claim No 7135 filed by the United States on behalf of EPA and Claim No. 7181 filed by the State of Washington, which claims are resolved by this Consent Decree as provided herein; and (ii) Claim No. 1224 filed by J.A. Steiner and Claim No. 1558 filed by Joseph A. Blumel, which claims are not affected by this Consent Decree and shall remain the responsibility of KACC. The Custodial Trust shall have no responsibility or liability with regard to Claim Nos. 1224 and 1558.

11. Daniel J. Silver is appointed as the Custodial Trustee to administer the Custodial Trust in accordance with a Custodial Trust Agreement substantially in the form attached hereto as **Exhibit B**. Any changes to Exhibit B must be approved by the Governmental Parties and the Custodial Trustee in writing. In connection with the approval of this Consent Decree, the Court shall approve the appointment of Daniel J. Silver as the Custodial Trustee. Subject to approval of his appointment by the Court and the Custodial Trust Agreement taking effect as provided therein, Daniel J. Silver agrees on behalf of the Custodial Trust and solely in his representative capacity as Custodial Trustee that the Custodial Trust will perform all of the Custodial Trust's duties and obligations under this Consent Decree to the extent of the Custodial Trust's funds and will have all of the Custodial Trust's rights as provided for in this Consent Decree.

12. The Custodial Trust shall use the proceeds of the Policy to carry out the tasks specified in the RAP and in accordance with Paragraph 4. To the extent of the Custodial Trust's funds, the Custodial Trust shall perform the work required by the SOW and otherwise comply with the terms of the SOW and this Consent Decree. The Custodial Trust shall only contract to perform work required by the SOW with such contractors as have been approved in writing by the Oversight Agency and the Insurance Company in accordance with this Paragraph (**"Scheduled Contractors"**).

A. The Custodial Trust shall notify the Oversight Agency and the Insurance Company in writing of its intent to select a contractor to perform work required by the SOW and shall submit to the Oversight Agency and the Insurance Company a list of contractors, including the qualifications of each contractor, that would be acceptable to the Custodial Trust. The Oversight Agency and the Insurance Company each separately will provide written notice of the

names of any contractor(s) on such list that it disapproves and an authorization to proceed with respect to any of the other contractors. The Custodial Trust may select any contractor from that list that is not disapproved and shall notify the Oversight Agency and the Insurance Company of the name of the contractor selected within 21 days of receiving authorization to proceed from the Oversight Agency and the Insurance Company. Any such selected contractor shall be a Scheduled Contractor under this Consent Decree and the Policy.

B. The Custodial Trustee shall ensure that any contract retaining any Scheduled Contractor to perform RAP tasks provides that the Scheduled Contractor shall be compensated solely from the proceeds of the Policy, and that in the event of a dispute with the Insurance Company regarding the Scheduled Contractor's compensation, resolution of such dispute shall be the responsibility of the Scheduled Contractor, at its own cost.

13. The Custodial Trust shall implement any institutional controls, including but not limited to, restrictive easements or covenants, requested by the Oversight Agency with respect to the Site. The Custodial Trustee shall provide the Governmental Parties and their representatives access at all reasonable times for the purposes of conducting Response Actions or related activities at or near the Site.

14. In the event that the Court or the Governmental Parties find that the Custodial Trustee has exacerbated conditions at the Site or violated the provisions of this Consent Decree or the Custodial Trust Agreement, EPA and Ecology may provide notice in writing to the Custodial Trustee and the Insurance Company terminating the Custodial Trustee and naming a successor Custodial Trustee in accordance with the Custodial Trust Agreement. In the event that the Governmental Parties determine that the Custodial Trustee has ceased implementation of any

of its duties and obligations under the Consent Decree ("Work"), is seriously or repeatedly deficient or late in the performance of Work, or is implementing Work or taking other action in any manner which may cause an endangerment to human health or the environment, EPA and Ecology may provide notice in writing to the Custodial Trustee and the Insurance Company advising that EPA or Ecology intend to take over all or a portion of the work set forth in the SOW. Such notice shall describe the alleged violation, specifically stating whether the alleged violation relates to work or obligations under the RAP or other work or obligations in the SOW. The notice shall further describe those actions which must be performed to effectuate a cure of the alleged violation. Upon receipt of such notice, the Custodial Trustee, or in the event the alleged violation relates solely to the RAP, the Insurance Company at its sole discretion shall have 21 days to cure such violation. If the conditions have not been cured within 21 days, EPA and Ecology may then forward written notice by overnight mail to the Custodial Trustee and the Insurance Company stating that EPA or Ecology shall take over all or a portion of the work set forth in the SOW which take over shall become effective five (5) days after such notice is mailed. Such notice shall also designate a governmentally approved contractor(s) who shall be considered to be a Scheduled Contractor under Paragraph 12 of this Consent Decree and the Policy. Notwithstanding any other provision of this Consent Decree, the Governmental Parties retain all authority and reserve all rights to take any and all Response Actions authorized by law.

15. The Custodial Trustee, the Custodial Trust's employees, officers, and directors and any of the Custodial Trustee's or Custodial Trust's professionals and/or representatives (the "Custodial Trust Parties"), and the Custodial Trust, as of the Effective Date, shall have and shall be deemed to have resolved their civil liability under CERCLA, RCRA and similar state statutes,

including, but not limited to, MTCA, and shall be entitled to protection from contribution actions or claims to the maximum extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2) and applicable sections of MTCA with respect to the Site.

TREATMENT OF PAYMENTS

16. The payments set forth in Paragraphs 5 and 6 shall be deemed allocated towards all past, present and future Claims with respect to response costs and cleanup costs for the Site, whether to address matters known or unknown, for which a Claim has been or could be asserted against the Debtors pursuant to MTCA, Sections 106 or 107 of CERCLA, or Section 7003 of RCRA.

17. The payments to be made in this Consent Decree do not constitute, nor shall they be construed as, forfeitures, fines or penalties (or payments in lieu thereof), and nothing herein is intended, or shall be construed, as an admission by Debtors of any facts or any violation of law. Notwithstanding the foregoing, Debtors do agree to comply with all terms of this Consent Decree upon the Effective Date.

OVERSIGHT AGENCY APPROVAL OF PLANS AND OTHER SUBMISSIONS

18. After review of any plan, report or other item which is required to be submitted for approval pursuant to this Consent Decree, the RAP or the SOW, the Oversight Agency shall:

- (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that the Custodial Trust modify the submission; or (e) any combination of the above. However, the Oversight Agency shall not modify a submission

without first providing the Custodial Trust at least one notice of deficiency, with copy to the Insurance Company, and an opportunity to cure within thirty (30) days, except where to do so would cause serious disruption to work at the Site or where previous submission(s) have been disapproved due to material defects and the deficiencies in the submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.

19. In the event of approval, approval upon conditions, or modification by the Oversight Agency pursuant to Paragraph 18 (a), (b) or (c), the Custodial Trust shall proceed to take any action required by the plan, report, or other item, as approved or modified by the Oversight Agency subject only to the right of the Custodial Trust or Insurance Company to invoke the Dispute Resolution procedures set forth in Paragraphs 22-26 with respect to the modifications or conditions made by the Oversight Agency.

20. Upon receipt of a notice of disapproval pursuant to Paragraph 18(d), the Custodial Trust shall, within thirty (30) days or such longer time as agreed to by the Oversight Agency due to the magnitude of the comments in such notice, correct the deficiencies and resubmit the plan, report, or other item for approval. Notwithstanding the receipt of a notice of disapproval pursuant to Paragraph 18(d), the Custodial Trust shall proceed, at the direction of the Oversight Agency, to take any action required by any non-deficient portion of the submission. In the event that a resubmitted plan, report or other item, or portion thereof, is disapproved by the Oversight Agency, the Oversight Agency may again require the Custodial Trust to correct the deficiencies, in accordance with the preceding Paragraphs. The Oversight Agency also retains the right to modify or develop the plan, report or other item. The Custodial Trust shall implement any such plan, report, or item as modified or developed by the Oversight Agency, subject only to the right

of the Custodial Trust or Insurance Company to invoke the Dispute Resolution procedures set forth in Paragraphs 22-26.

21. All plans, reports, and other items required to be submitted to the Oversight Agency under this Consent Decree shall, upon approval or modification by the Oversight Agency (subject to Paragraph 18-20), be enforceable under this Consent Decree. In the event the Oversight Agency approves or modifies a portion of a plan, report, or other item required to be submitted to the Oversight Agency under this Consent Decree, the approved or modified portion shall (subject to Paragraph 18-20) be enforceable under this Consent Decree.

DISPUTE RESOLUTION

22. The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes between any Governmental Parties and the Custodial Trust and the Insurance Company, arising under or with respect to this Consent Decree and the SOW. However, the procedures set forth in this Section shall not apply to actions by the United States or the State of Washington to enforce obligations of the Custodial Trust that have not been disputed in accordance with this Section. Further proceedings with respect to the Custodial Trust's compliance with this Consent Decree and the SOW shall be brought in this Court, except as otherwise required by law. Where Insurance Company is a party to a dispute with any Governmental Parties, arising under or with respect to this Consent Decree and the SOW, Insurance Company shall participate in, and be bound by, the Dispute Resolution procedures of this Section in the same manner and to the same extent as the Custodial Trust. Except as expressly provided in Paragraph 9, any dispute or difference where the Insurance Company is a

party arising from or relating to the interpretation, application, applicability, or enforceability of the Policy, including but not limited to any determination of the amount of Clean-Up Costs paid or covered, interpretation of any term or condition, and applicability of any exclusion, shall not be subject to the dispute resolution provisions of this Section.

23. Any dispute that is the subject of the dispute resolution procedures of Paragraphs 22-26 shall in the first instance be the subject of informal negotiations between the parties to the dispute. The period for informal negotiations shall not exceed 20 days from the time the dispute arises, unless it is modified by written agreement of the parties to the dispute. The dispute shall be considered to have arisen when one party sends the other parties a written Notice of Dispute. All Parties shall make reasonable efforts to informally resolve disputes at the Project Manager/Coordinator or immediate-supervisor level.

24. A. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by the Oversight Agency shall be considered binding unless, within 14 days after the conclusion of the informal negotiation period, the Custodial Trust or the Insurance Company invokes the formal dispute resolution procedures of this Section by serving on the Oversight Agency and Support Agency a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis or opinion supporting that position and any supporting documentation relied upon by the Custodial Trust.

B. Within 21 days after receipt of the Statement of Position submitted by the Custodial Trust or the Insurance Company, the Oversight Agency after consultation with the Support Agency will serve on the Custodial Trust and the Insurance Company its Final Decision

regarding the dispute, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by the Oversight Agency.

25. Formal dispute resolution shall be governed by this Paragraph.

A. The Oversight Agency's Final Decision issued under Paragraph 24.B shall be binding on the Custodial Trust and the Insurance Company unless, within 10 business days of receipt of the decision, the Custodial Trust or Insurance Company files with the Court and serves on the Parties a motion for judicial review of the decision setting forth the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of the Consent Decree. The Oversight Agency and/or the Support Agency may file a response to the motion.

B. In any dispute under this Paragraph, the Custodial Trust shall bear the burden of demonstrating, to the satisfaction of the Court, that its position achieves the objectives of this Consent Decree and the SOW. If the dispute involves an Oversight Agency decision regarding any Response Action, the Court's review of the Oversight Agency's decision will be on the basis of whether such decision was arbitrary and capricious, or otherwise not in accordance with law and the Court's decision must be based on such standard of review.

C. The following procedure shall apply to any formal dispute resolution under this Paragraph that: (1) is initiated after the date on which a confirmed plan of reorganization that includes KACC becomes effective; or (2) is initiated at any time and that does not include any of the Debtors as parties. Following the filing of the motion that initiates such a dispute, the Parties agree that they shall jointly move to withdraw the Court's reference for

such dispute and to transfer venue over such dispute to the United States District Court for the Eastern District of Washington.

26. The invocation of formal dispute resolution procedures under this Section shall not extend, postpone or affect in any way any obligation of the Custodial Trust under this Consent Decree, not directly in dispute, unless the Oversight Agency or the Court agrees otherwise.

CERTIFICATION OF COMPLETION

27. When the Custodial Trust believes it has completed any task described in the SOW, the Custodial Trust may notify the Oversight Agency and request the Oversight Agency's certification that such task has been satisfactorily completed. The Oversight Agency shall notify the Custodial Trust of its determination within sixty (60) days of receiving such a request. Upon receipt of the Oversight Agency's written determination that a task described in the SOW has been completed, The Custodial Trust may cease implementation of such task, consistent with the Oversight Agency's determination. The Oversight Agency's determination that one or more tasks have been completed does not alter the Custodial Trust's obligation to maintain and continue each and every other task described in the SOW.

28. Upon certification in writing by the Oversight Agency that all of the Custodial Trustee's obligations for implementing the SOW have been completed and approved, if there are funds remaining in the Custodial Trust in excess of the amount required to make full payment therefor, such excess funds shall be paid to the Washington state toxics control account created

under RCW 70.105D.070(2) and/or EPA special account as directed jointly in writing by Ecology and EPA.

COVENANT NOT TO SUE AND RESERVATION OF RIGHTS

29. In consideration of all of the foregoing, including the payments that will be made by Debtors pursuant to this Consent Decree, and except as provided in Paragraphs 30 through 32 and Paragraph 36, the United States on behalf of EPA and the State of Washington covenant not to bring a civil action or take administrative action against the Debtors, the Custodial Trust or the Custodial Trust Parties pursuant to Sections 106 and 107 of CERCLA, Section 7003 of RCRA, or applicable sections of MTCA, or under state common law, with respect to the Site and any areas affected by a release or threatened release of hazardous substances from the Site. This covenant not to sue shall take effect on the Effective Date. This covenant not to sue shall also apply to the Debtors' and the Custodial Trust Parties' successors and assigns, officers, directors, employees, and trustees, but only to the extent that the alleged liability of such successor or assign, officer, director, employee, or trustee is based on its status as and in its capacity as a successor or assign, officer, director, employee, or trustee of any Debtor or Custodial Trust Parties.

30. The covenant not to sue set forth in the previous paragraph does not pertain to any matters other than those expressly specified in the previous paragraph. The United States on behalf of EPA and the State of Washington reserve, and this Consent Decree is without prejudice to, all rights with respect to all other matters, and specifically with respect to (i) claims based on a failure to meet a requirement of this Consent Decree, (ii) liability for any site other than the

Site (subject to any separate settlement, including the Multi-Site CD, regarding such other site), (iii) criminal liability or (iv) claims arising from future conduct at the Site by Debtors after the Effective Date that causes a new disposal or new release of any hazardous waste, hazardous substance, hazardous material, or contaminant at the Site. The United States on behalf of EPA and the State of Washington also reserve all rights against the Custodial Trust for any future conduct at the Site by the Custodial Trust that causes a new disposal of hazardous waste, hazardous substance, hazardous material, or contaminant at the Site after the Effective Date, but such reservation is only applicable to liability for those newly disposed substances. The United States on behalf of EPA and the State of Washington also reserve all rights against the Custodial Trust Parties for and to the extent of any gross negligence or willful misconduct or fraud.

31. The covenants not to sue contained in Paragraphs 29 and 33 of this Consent Decree extend only to the Debtors and the persons described in Paragraphs 29 and 33 and do not extend to any other person. Nothing in this Consent Decree is intended as a covenant not to sue or a release from liability for any person or entity other than the Debtors, the United States, the State of Washington, the Custodial Trust, the Custodial Trust Parties, and the persons described in Paragraphs 29 and 33. The United States, the State of Washington, the Debtors, expressly reserve all claims, demands and causes of action either judicial or administrative, past, present or future, in law or equity, which they may have against all other persons, firms, corporations, entities or predecessors of the Debtors for any matter arising at, or relating in any manner to, the Site.

32. Nothing in this Consent Decree shall be deemed to limit the authority of the United States or the State of Washington to take Response Actions under Section 104 of

CERCLA, 42 U.S.C. §9604, state law, or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the United States or the State of Washington pursuant to that authority. Nothing in this Consent Decree shall be deemed to limit the information gathering authority of the United States or the State of Washington under Sections 104 and 122 of CERCLA, 42 U.S.C. §§9604 and 9622, state law, or any other applicable federal law or regulation, or to excuse any disclosure or notification requirements imposed by CERCLA, RCRA, or any other applicable federal or state law or regulation.

33. The Debtors, the Custodial Trust, and the Custodial Trust Parties covenant not to sue and agree not to assert any claims or causes of action against the United States and the State of Washington with respect to the Site, including but not limited to: any direct or indirect claim for reimbursement from the Hazardous Substance Superfund or the Washington Toxics Control Account, any claims for contribution against the United States and the State of Washington, their departments, agencies or instrumentalities and any claims arising out of Response Actions at the Site. Nothing in this Consent Decree shall be construed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. 9611 or 40 C.F.R. 300.700(d).

34. The Custodial Trust Parties shall not be personally liable unless the Court finds that they were grossly negligent or committed willful misconduct or fraud in relation to the Custodial Trustee's duties after the effective date of the Custodial Trust Agreement. The Custodial Trust Parties shall be indemnified (and any judgment and costs of defense shall be paid from the Custodial Trust Account without having to first pay from their own funds) for any personal liability or costs of defense unless the Court finds that they were grossly negligent or

committed willful misconduct or fraud in relation to the Custodial Trustee's duties. This indemnification shall be limited to funds in the Custodial Trust Account.

CONTRIBUTION PROTECTION

35. With regard to all existing or future third-party claims against the Debtors, the Custodial Trust, and the Custodial Trust Parties with respect to the Site, including claims for contribution, the Parties hereto agree that, as of the Effective Date, the Debtors, the Custodial Trust, and the Custodial Trust Parties shall be entitled to protection from actions or claims to the maximum extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2) and applicable sections of MTCA with respect to the Site. The Debtors' protection under this paragraph shall be subject to timely payment of the amounts due under Paragraphs 5 and 6 in full, without any reduction in amount.

TREATMENT OF THE MEAD ALUMINUM REDUCTION WORKS AND SURROUNDING PROPERTIES

36. The Parties acknowledge that the "Mead Aluminum Reduction Works" is defined as a "Reserved Site" under the Multi-Site CD. Upon the Effective Date, neither the Site, nor the Mead Aluminum Reduction Works, nor any other properties located in or about Mead, Washington currently or previously owned by KACC shall be or be deemed to be a "Reserved Site" under the Multi-Site CD. The Mead Aluminum Reduction Works and all other properties located in or about Mead, Washington previously owned by KACC (the "Mead Additional Sites") shall, as of the Effective Date, be deemed "Additional Site(s)" as defined in the Multi-Site CD. All other properties located in or about Mead, Washington that are owned by KACC at

or at any time after the confirmation of a plan of reorganization that includes KACC (the "Mead Debtor-Owned Sites") shall be deemed "Debtor Owned Sites" as defined in the Multi-Site CD. The treatment of the Mead Additional Sites, the Mead Debtor-Owned Sites, and related Claims, if any, that the United States on behalf of EPA and/or the State of Washington may have with respect to the Mead Additional Sites or the Mead Debtor-Owned Sites shall be governed by the terms and provisions of the Multi-Site CD applicable to "Additional Sites" and "Debtor-Owned Sites," respectively, which terms and provisions are expressly incorporated herein by reference as if restated in full.

NOTICES AND SUBMISSIONS

37. Whenever, under the terms of this Consent Decree, written notice is required to be given, or a report or other document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change of address to the other Parties in writing. All notices and submissions shall be considered effective upon receipt, unless otherwise provided. Except as otherwise provided in this Consent Decree, written notice as specified herein shall constitute complete satisfaction of any written notice requirement in this Consent Decree with respect to the United States, the State of Washington and the Debtors, respectively.

As to the United States:

Environmental Enforcement Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station

Washington, D.C. 20044
Ref. DOJ File No. 90-11-3-07769/1

Regional Counsel
United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

As to the State of Washington:

Steven J. Thiele
Assistant Attorney General
Office of the Attorney General, Ecology Division
P.O. Box 40117
Olympia, WA 98504-0117

Program Manager
Solid Waste & Financial Assistance Program
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-76001

As to the Debtors:

Kaiser Aluminum & Chemical Corporation
5847 San Felipe, Suite 2500
Houston, TX 77057
ATTN: General Counsel

Heller, Ehrman, White & McAuliffe, LLP
701 Fifth Avenue, Suite 6100
Seattle, WA 98104-7098
ATTN: R. Paul Beveridge

As to Insurance Company:

Division Counsel
AIG Environmental
175 Water Street, 12th Floor
New York, NY 10038

Manager National Accounts
AIG Environmental
675 Bering Drive, Suite 600
Houston, TX 77657

Manager Pollution Insurance Products
AIG Technical Services
101 Hudson Street, 31st Floor
Jersey City, NJ 07302

TREATMENT OF PROOFS OF CLAIM

38. The portions of Claim No. 7135, except EPA's claim of \$149,853 for past response costs, and Claim No. 7181 that assert liabilities with respect to the Mead Aluminum Reduction Works and/or the Site shall be deemed satisfied in full in accordance with the terms of this Consent Decree and shall be withdrawn as satisfied pursuant to this Consent Decree as of the Effective Date. Kaiser's claims and noticing agent, Logan & Company, is authorized and empowered as of the Effective Date to withdraw as satisfied the portions of Claim No. 7135, except EPA's claim of \$149,853 for past response costs, and Claim No. 7181 that assert liabilities with respect to the Mead Aluminum Reduction Works and/or the Site.

39. Nothing in this Consent Decree shall affect any rights the United States may have pursuant to 11 U.S.C. § 553(a) to offset its claim of \$149,853 for past response costs with respect to the Mead Aluminum Reduction Works and/or the Site against the up to \$390,857.11 that the United States Bureau of Customs and Border Protection has been alleged to owe the Debtors.

LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

40. This Consent Decree shall be subject to approval of the Court. The Debtors shall promptly seek approval of this Consent Decree under Bankruptcy Rule 9019 or other applicable provisions of the Bankruptcy Code.

41. This Consent Decree also shall be lodged with the Court for public notice and comment for a period of not less than thirty (30) days. To the extent, if any, that such lodging does not satisfy all public notice and comment requirements of the State of Washington laws and regulations, the State of Washington shall take all action necessary during such thirty-day period to satisfy all such requirements. After the conclusion of the public comment period, the United States (and, if applicable, the State of Washington) will file with the Court any comments received, as well as the United States' (and the State of Washington's, as applicable) responses to the comments, and at that time, if appropriate, the Court will be requested by motion of the United States (and the State of Washington, as applicable) to approve this Consent Decree. The United States and the State of Washington reserve the right to withdraw or withhold their consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is not in the public interest.

42. If for any reason (i) this Consent Decree is withdrawn by the United States or the State of Washington as provided in Paragraph 41, or (ii) the Court issues a final order not approving this Consent Decree: (a) this Consent Decree shall be null and void and the Parties shall not be bound hereunder or under any documents executed in connection herewith; (b) the Parties shall have no liability to one another arising out of or in connection with this Consent

Decree or under any documents executed in connection herewith; (c) this Consent Decree and any documents prepared in connection herewith shall have no residual or probative effect or value and it shall be as if they had never been executed; and (d) this Consent Decree, any statements made in connection with settlement discussions, and any documents prepared in connection herewith may not be used as evidence in any litigation between or among the Parties.

RETENTION OF JURISDICTION

43. Except for any disputes under this Consent Decree for which the Court's reference is withdrawn and venue is transferred pursuant to Paragraph 25.C, the Court shall retain jurisdiction over the subject matter of this Consent Decree and the parties hereto, for the duration of the performance of the terms and provisions of this Consent Decree for the purpose of enabling any of the Parties to apply to the Court at any time for such further order, direction and relief as may be necessary or appropriate for the construction or interpretation of this Consent Decree or to effectuate or enforce compliance with its terms.

MISCELLANEOUS

44. The Debtors shall file a Plan of Reorganization that is consistent with and does not conflict with the terms and provisions of this Consent Decree. The United States and the State of Washington will not oppose any term or provision of a Plan of Reorganization filed by the Debtors that is addressed by and consistent with this Consent Decree. The Parties reserve all other rights and defenses they may have with respect to any Plan of Reorganization filed by the Debtors.

45. This Consent Decree in no way impairs the scope and effect of the Debtors' discharge under Section 1141 of the Bankruptcy Code as to any third parties or as to any claims that are not addressed by this Consent Decree.

46. This Consent Decree represents the complete agreement of the Parties on the matters referred to herein and supersedes all prior agreements, understandings, promises and representations made by the Parties hereto concerning the Site and the Mead Additional Sites, including the Multi-Site CD, except to the extent that the terms of the Multi-Site CD are expressly incorporated herein by reference. Nothing in this paragraph shall affect any Court orders or any filings by the Debtors relating to the sale of the Mead Aluminum Reduction Works. This Consent Decree may not be amended, modified or supplemented, in whole or in part, without the prior written consent of the Parties hereto and the approval of the Court.

47. This Consent Decree may be executed in counterparts each of which shall constitute an original and all of which shall constitute one and the same agreement.

[Signatures on the Next Page]

THE UNDERSIGNED PARTIES ENTER INTO THIS CONSENT DECREE

FOR THE UNITED STATES OF AMERICA:

Date: 8.10.04

By: _____
Thomas L. Sansonetti
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

Date: 8/11/04

By: _____
Alan S. Tenenbaum
Eric G. Williams
Trial Attorneys
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice

Date: _____

By: _____
Ronald A. Kreizenbeck
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 10

Date: _____

By: _____
Ted Yackulic
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 10

THE UNDERSIGNED PARTIES ENTER INTO THIS CONSENT DECREE

FOR THE UNITED STATES OF AMERICA:

Date: _____

By: _____
Thomas L. Sansonetti
Assistant Attorney General
Environment and Natural Resources
Division
U.S. Department of Justice

Date: _____

By: _____
Alan S. Tenenbaum
Eric G. Williams
Trial Attorneys
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice

Date: 8/12/04

By: _____
Ronald A. Kreizenbeck *for*
Acting Regional Administrator
U.S. Environmental Protection Agency
Region 10

Date: 8/10/04

By: _____
Ted Yackulic
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region 10

FOR THE STATE OF WASHINGTON:

DEPARTMENT OF ECOLOGY

Date: 8/9/04

By: Cullen D. Stephenson
Program Manager
Washington Department of Ecology
Solid Waste & Financial Assistance
Program

CHRISTINE O. GREGOIRE
Attorney General

Date: 8-9-04

By: Steven J. Thiele, WSBA #20275
Assistant Attorney General
Attorney for State of Washington
Department of Ecology

FOR THE DEBTORS:

Kaiser Aluminum & Chemical Corporation

Date: _____

By: John Barneson
Senior Vice President and
Chief Administrative Officer

Date: _____

By: Joseph A. Fischer, III
Assistant General Counsel

FOR THE STATE OF WASHINGTON:

DEPARTMENT OF ECOLOGY

Date: _____

By: _____
Cullen D. Stephenson
Program Manager
Washington Department of Ecology
Solid Waste & Financial Assistance
Program

CHRISTINE O. GREGOIRE
Attorney General

Date: _____

By: _____
Steven J. Thiele, WSBA #20275
Assistant Attorney General
Attorney for State of Washington
Department of Ecology

FOR THE DEBTORS:

Kaiser Aluminum & Chemical Corporation

Date: Aug 3, 2004

By: _____
John Barneson
Senior Vice President and
Chief Administrative Officer

Date: August 3, 2004

By: _____
Joseph K. Fischer, III
Assistant General Counsel

FOR Insurance Company :

Date: _____

By: Kenneth Radigan
Vice President
American International Specialty
Lines Insurance Company

8/4/04

Date: _____

By: Joseph Cellura
Vice President
American International Specialty
Lines Insurance Company

5/4/04

Date: _____

Daniel J. Silver
In His Capacity As Custodial Trustee

FOR Insurance Company :

Date: _____

By: _____
Kenneth Radigan
Vice President
American International Specialty
Lines Insurance Company

Date: _____

By: _____
Joseph Cellura
Vice President
American International Specialty
Lines Insurance Company

Date: August 9, 2004

Daniel J. Silver
In His Capacity As Custodial Trustee

EXHIBIT A
TO MEAD CONSENT DECREE

LEGAL DESCRIPTION OF THE SITE

That portion of the N1/2 of Section 16, Township 26 North, Range 43 East, W.M., Spokane County, Washington, described as follows:

Beginning at the northwest corner of the NE1/4 of said Section 16; thence S89°43'12"E, along the north line of said NE1/4, 1434.06 feet; thence S00°16'48"W 282.18 feet; thence N89°33'44"W 113.58 feet; thence S77°05'46"W 36.12 feet; thence S52°17'25"W 39.40 feet; thence S14°29'52"W 38.03 feet; thence S01°12'06"W 94.75 feet; thence S07°38'50"W 51.71 feet; thence S15°55'21"W 17.49 feet; thence S38°09'37"W 17.43 feet; thence S50°42'00"W 20.27 feet; thence S59°31'40"W 20.34 feet; thence N88°42'33"W 726.66 feet; thence N01°17'27"E 11.00 feet; thence N88°42'33"W 15.00 feet; thence S01°17'27"W 11.00 feet; thence N88°42'33"W 94.37 feet; thence N87°44'02"W 47.70 feet; thence S82°38'28"W 36.46 feet; thence N05°56'23"W 17.41 feet; thence N52°01'54"W 93.74 feet; thence N16°26'32"W 92.27 feet; thence S88°30'33"E 16.98 feet; thence N01°56'24"W 184.84 feet; thence S83°47'26"W 52.25 feet; thence N11°03'37"W 52.72 feet; thence S81°14'41"W 87.18 feet; thence S18°34'20"W 131.33 feet; thence S00°00'00"W 87.95 feet; thence S88°30'33"E 158.37 feet; thence S16°26'32"E 103.88 feet; thence S45°16'16"E 96.10 feet; thence S82°40'40"W 172.41 feet; thence S54°17'07"W 100.89 feet; thence N88°56'22"W 632.94 feet; thence S83°26'27"W 48.69 feet; thence S88°47'23"W 68.36 feet; thence N88°34'23"W 743.22 feet; thence N03°09'30"W 463.21 feet; thence S89°16'07"E 215.19 feet; thence N38°52'22"E 194.44 feet to a point on the north line of the NW1/4 of said Section 16; thence S89°33'04"E, along said north line, 1193.06 feet to the Point of Beginning.

EXHIBIT B
TO MEAD CONSENT DECREE

CUSTODIAL TRUST AGREEMENT

CUSTODIAL TRUST AGREEMENT

This Custodial Trust Agreement ("Agreement") is made as of the Effective Date (as defined below), by and between KAISER ALUMINUM & CHEMICAL CORPORATION, a Delaware corporation ("KACC") and DANIEL J. SILVER, not individually but solely in the representative capacity of Custodial Trustee, as Trustee (the "Custodial Trustee") (individually, a "Party" and collectively, the "Parties").

RECITALS

WHEREAS, On February 12, 2002, KACC, its parent, Kaiser Aluminum Corporation ("Kaiser") and certain direct and indirect subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§101-1330, in the United States Bankruptcy Court for the District of Delaware (the "Court"). Since then, other Kaiser companies also filed for bankruptcy (KACC, Kaiser and all other Kaiser debtors shall be collectively referred to herein as the "Debtors"). The Chapter 11 cases of all of the Debtors have been consolidated for procedural purposes and are being administered jointly, in a matter styled *In re Kaiser Aluminum Corporation, et al.*, Case No. 02-10429 (JKF);

WHEREAS, KACC owns certain real property located in Mead, Washington, as legally described in Attachment I attached hereto, which consists of (i) an approximately twenty-five (25) acre pile of spent potlining, solid waste rubble and butt tailings that KACC consolidated and covered pursuant to Washington State Department of Ecology Order DE 01-TCPIS-2075 and (ii) an approximately twenty-five (25) acre existing wet scrubber sludge bed adjacent thereto (collectively the "Site");

WHEREAS, the United States, on behalf of the United States Environmental Protection Agency ("EPA"), filed a proof of claim, Claim No. 7135, against the Debtors ("Claim No. 7135") pursuant to which the United States, among other things, asserts a claim for past response costs with respect to the Mead Aluminum Reduction Works and/or the Site and which also asserts a protective claim with respect to the Debtors' alleged injunctive obligation to perform future work requirements to cleanup Mead Parcel 1 and/or the Site;

WHEREAS, the State of Washington, at the request of the Washington State Department of Ecology ("Ecology"), filed a proof of claim, Claim No. 7181, against the Debtors ("Claim No. 7181") with respect to the Debtors' alleged injunctive obligation to perform future remedial action associated with releases and threatened releases of hazardous substances into the environment from the Mead Aluminum Reduction Works and/or the Site;

WHEREAS, the Debtors, Ecology, EPA and Insurance Company (as defined below) have executed a consent decree (the "Consent Decree") to, among other things as more fully stated in the Consent Decree, settle and resolve environmental matters relating to the Site as provided therein, including to resolve Claim No. 7135 and Claim No. 7181, as the same pertain to the Site;

WHEREAS, in accordance with the Consent Decree, this trust, known as the Mead SPL Site Custodial Trust (the "Custodial Trust") is established for the purposes of (a) owning and taking title to the Site; (b) carrying out administrative functions related to the Site, (c) managing and/or funding implementation of activities at the Site consistent with the Consent Decree and SOW (as defined below), and (d) if possible, selling, leasing or otherwise disposing of the Site in the future as provided in Section 2.8 below;

WHEREAS, the Custodial Trust is created pursuant to, and to effectuate, the Consent Decree;

WHEREAS, the Custodial Trust is intended to qualify as a "qualified settlement fund" pursuant to section 468B of the Internal Revenue Code and related regulations;

WHEREAS, the Custodial Trust shall be the exclusive holder of the assets described herein for purposes of 31 U.S.C. 3713(b) and 26 U.S.C. 6012 (b)(3);

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein and in the Consent Decree, the Parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 **Definitions.** The following terms as used in this Agreement shall have the definitions given below.

"Beneficiary" or "Beneficiaries" has the meaning given in Section 5.1 hereof.

"CERCLA" refers to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.*, as now in effect or hereafter amended.

"Consent Decree" has the meaning given in the preamble. A copy of the Consent Decree is attached hereto at Attachment III.

"Court" means the United States Bankruptcy Court for the District of Delaware. In the event that a dispute under the Consent Decree is transferred to the United States District Court for the Eastern District of Washington pursuant to Paragraph 25.C of the Consent Decree, such District Court shall be the "Court" for all matters relating to such dispute for so long as such Court retains jurisdiction over such dispute.

"Custodial Trust" has the meaning given in the preamble.

"Custodial Trust Assets" means (a) those assets and properties, including the Site and the Policy (as defined below), to be transferred to the Custodial Trust pursuant to the Consent Decree and (b) such other assets acquired or held by the Custodial Trust from time to time pursuant to this Agreement, the Consent Decree or an order of the Court.

"Custodial Trust Parties" has the meaning given in Section 2.7.

"Custodial Trust Proceeds" means the proceeds of the liquidation, sale, recovery or other proceeds in respect of the Custodial Trust Assets.

"Ecology" has the meaning given in the preamble.

"Effective Date" means the date upon which the contributions required by Paragraphs 5.A and 5.B of the Consent Decree are made.

"Governmental Parties" means Ecology and EPA.

"Insurance Company" means American International Specialty Lines Insurance Company and its successors, assigns, affiliated companies, and reinsurers.

“Mead Parcel 1” means the approximately two hundred acre tract of real property located south of and contiguous to the Site, as legally described in Attachment II attached hereto

“MTCA” means the Washington State Model Toxics Control Act, RCW 70.105D.

“Oversight Agency” has the meaning given in Paragraph 1 of the Consent Decree.

“Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, charitable foundation, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“Policy” has the meaning given in Paragraph 6 of the Consent Decree.

“RAP” has the meaning given in Paragraph 6 of the Consent Decree.

“RCRA” refers to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* as now in effect or hereafter amended.

“Response Actions” mean response actions taken pursuant to CERCLA and or remedial actions taken pursuant to MTCA.

“Site” has the meaning given in the preamble.

“SOW” has the meaning given in Paragraph 4 of the Consent Decree and includes the RAP.

“Trust Account” and “Trust Accounts” have the meanings given in Section 3.1.

“Trust Subaccount” has the meaning give in Section 3.1

ARTICLE II

THE TRUST

2.1 Creation of and Transfer of Assets to Custodial Trust.

2.1.1 Pursuant to the Consent Decree, the Parties hereby establish the Custodial Trust on behalf of the Beneficiaries named herein, and KACC hereby transfers, assigns, and

delivers to the Custodial Trust, on behalf of the Beneficiaries, all right, title and interest in the Custodial Trust Assets. The Custodial Trust agrees to accept and hold the Custodial Trust Assets in the Custodial Trust for the Beneficiaries for the purposes described in Section 2.2 below, subject to the terms of the Consent Decree, this Agreement and any applicable orders of the Court. Cash received and held by the Custodial Trust shall be applied to the costs of managing and/or funding implementation of activities at the Site consistent with and pursuant to the Consent Decree and the SOW and for administrative expenses of the Custodial Trust as set forth under Section 3.2 and for other purposes set forth herein. The Custodial Trust may incur any reasonable and necessary expenses in liquidating and converting the Custodial Trust Assets to cash.

2.1.2 Pursuant to the Consent Decree, contributions and accretions to the Custodial Trust shall be as follows: (i) transfer of title to the Site by KACC within ten (10) business days of the effective date of the Consent Decree, and proceeds of any lease, sale, or other disposition of the Site under Section 2.8; (ii) payment by the Debtors of \$2,250,000.00 within ten (10) business days of the effective date of the Consent Decree; (iii) the Policy is to be provided within ten (10) business days of the effective date of the Consent Decree, and any payments made by the Insurance Company thereunder; and (iv) any interest earned on funds held by the Custodial Trust.

2.1.3 Upon the Effective Date (a) KACC shall no longer be nor shall be deemed to be an owner or operator of the Site, (b) KACC shall have no interest in, or with respect to, any Custodial Trust Assets, and (c) neither the Debtors nor any successors thereto shall have any further obligation to provide any funding to the Custodial Trust. Neither the United States, the State of Washington, EPA, Ecology, the Insurance Company nor the Debtors shall be or be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer or director of the Custodial Trust. The Custodial Trust and the Custodial Trust Parties shall not be deemed to be successors to any liabilities of the Debtors and shall have no liability for any liability that Debtors may have to any third parties.

2.2 **Objective and Purpose.** The Custodial Trust established by this Agreement seeks to be a qualified settlement fund pursuant to section 468B of the Internal Revenue Code

and related regulations. The purposes of the Custodial Trust are to implement the Consent Decree by, among other things, owning and taking title to the Site, carrying out administrative functions related to the Site, managing and/or funding implementation of activities at the Site consistent with the Consent Decree and SOW, and, if possible, selling, leasing or otherwise disposing of the Site as provided in Section 2.8.

2.3 Obligations Related to the Site. The Custodial Trust hereby agrees to perform all duties and obligations relating to the Site as required by the Consent Decree, SOW, and this Agreement, and accepts all rights and privileges of the Custodial Trust set forth in the Consent Decree, including, without limitation, the Dispute Resolution provisions set forth in Paragraphs 22 –26 of the Consent Decree. Without limiting the foregoing, the Custodial Trust shall implement any institutional controls, including but not limited to restrictive easements or covenants, requested by the Governmental Parties with respect to the Site as provided in Section 2.5 of this Agreement, and the Custodial Trust shall use the proceeds of the Policy to carry out the tasks specified in the RAP and the assets of the Trust to carry out the tasks specified in the SOW. Any Response Actions performed or undertaken by the Custodial Trust must have been approved in writing in advance by the Oversight Agency. In the event of any disagreement between the Custodial Trust and the Oversight Agency, the Custodial Trust's only recourse is through the Dispute Resolution provisions contained in Paragraphs 22-26 of the Consent Decree. In the event that the Court or the Governmental Parties finds that the Custodial Trustee has exacerbated conditions at the Site or violated the provisions of this Agreement or the Consent Decree, the Governmental Parties may terminate the Custodial Trustee and appoint a successor Custodial Trustee in accordance with Section 4.12 of this Agreement.

2.4 Investment and Safekeeping of Custodial Trust Assets. The Custodial Trustee shall invest and reinvest the principal and income of the Custodial Trust Assets and keep the Custodial Trust Assets invested as a single fund, without distinction between principal and income, subject to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Custodial Trust Assets, the Custodial Trustee shall discharge his duties with respect to the Custodial Trust Assets solely in the interest of the Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an

enterprise of a like character and with like aims, and in accordance with the Uniform Prudent Investor Act as enacted by the State of Washington, ch. 11.100 RCW; except that:

(a) The Custodial Trustee shall not invest more than twenty (20) percent of the Custodial Trust Assets in equity shares listed on a national exchange, including but not limited to shares of any mutual funds or "money market funds" which have their assets invested in such equity shares;

(b) The Custodial Trustee shall not invest the Custodial Trust Assets in government, municipal, or corporate bonds with a rating lower than "A" by Standard & Poor's Corporation or with an equivalent rating from an equivalent investment rating service;

(c) Securities or other obligations of the Debtors, or any owner or operator of the Site, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or a State government;

(d) The Custodial Trustee is authorized to invest the Custodial Trust Assets in time or demand deposits of the Custodial Trustee, to the extent insured by an agency of the Federal or State government; and

(e) The Custodial Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

2.5 Easement, Access and Deed Restrictions. KACC has recorded an easement burdening Mead Parcel 1 for the benefit of the owner of the Site pursuant to which the owner of the Site is granted access to the Site and is permitted to conduct environmental activities at the Site or near the Site over, under, across or through Mead Parcel 1. The Custodial Trustee shall provide the Governmental Parties and their representatives access to the Site at all reasonable times for the purposes of conducting Response Actions or related activities at or near the Site. The Custodial Trustee shall execute and record with the appropriate Recorder's Office any deed, restrictions, restrictive easements and/or covenants requested by the Governmental Parties

Agency for restrictions on use of the Site in order to protect public health or safety or ensure non-interference or protectiveness of Response Actions.

2.6 Accounting. The Custodial Trustee shall maintain, in respect of the Custodial Trust estate, books and records relating to the assets and income of the Custodial Trust and the payment of expenses of, and liabilities of and claims against, the Custodial Trust in such detail and for such period of time as may be necessary to enable the Custodial Trustee to make full and proper accounting in respect thereof in accordance with Article VI hereof and to comply with applicable provisions of law. Except as otherwise provided herein, the Custodial Trustee is not required to file any accounting or seek approval of any court either with respect to the administration of the Custodial Trust, or as a condition for making any payment or distribution out of the Custodial Trust Assets. Beneficiaries shall have the right upon thirty (30) day's prior written notice delivered to the Custodial Trust to inspect the Custodial Trust's books and records.

2.7 Liability. As provided in Paragraphs 15 and 35 of the Consent Decree, the Custodial Trustee, the Custodial Trust's employees, officers, and directors and any of the Custodial Trustee's or Custodial Trust's professionals and/or representatives (the 'Custodial Trust Parties'), and the Custodial Trust, as of the effective date of the Consent Decree, are deemed to have resolved their civil liability under CERCLA, Section 7003 of RCRA and similar state statutes, including, but not limited to, MTCA, and to have protection from contribution actions or claims to the maximum extent provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and applicable sections of MTCA with respect to the Site. Subject to Paragraphs 30-32 of the Consent Decree, the Custodial Trust Parties and the Custodial Trust will also have the benefits of the covenant not to sue as set forth in Paragraph 29 of the Consent Decree.

2.8 Future Disposition of the Site. Any Governmental Party or a governmental unit that is a designee of a Governmental Party may at any time propose in writing to take title to the Site. Any such proposed transfer and the terms thereof are subject to approval in writing by EPA and Ecology. The Custodial Trustee may at any time seek the approval of EPA and Ecology for the sale or lease or other disposition of all or part of the Site. Ecology and EPA must approve such sale or lease or other disposition and the terms thereof in writing. In the event of any

approved sale or lease or other disposition under this Section 2.8, the net proceeds from the sale or lease or other disposition shall be paid to the Trust Account.

2.9 **Termination.** To the extent consistent with implementation of the Consent Decree and the SOW, the Custodial Trustee shall not unduly prolong the duration of the Custodial Trust and shall at all times endeavor to resolve, settle or otherwise dispose of all claims that constitute Custodial Trust Assets and to effect the distribution of the Custodial Trust Proceeds and other receipts relating to the Custodial Trust Assets for the benefit of the Beneficiaries hereunder in accordance with the terms hercof, and to effect the disposition of the Site as provided in Section 2.8, if possible.

ARTICLE III DISTRIBUTIONS

3.1 **Trust Accounts.** The Custodial Trust shall hold such trust accounts as it deems necessary to administer Custodial Trust Assets and distributions therefrom (each, a "Trust Account" and collectively, the "Trust Accounts"), and each Trust Account may be divided into such number of trust subaccounts dedicated for specific uses as may be deemed necessary in the sole discretion of the Custodial Trustee (each, a "Trust Subaccount") to comply with the terms of, and implement, the Consent Decree, the SOW and this Agreement. The Custodial Trust shall at all times seek to treat the Custodial Trust Accounts held by it as Qualified Settlement Funds pursuant to the Treasury Regulations under Section 468B of the Internal Revenue Code.

3.2 **Administrative Expenses of the Trust.** The Custodial Trustee shall provide Ecology and EPA with an annual budget for administration of the Custodial Trust, which may be approved or disapproved by the Oversight Agency. If disapproved, such budget shall be revised and resubmitted as expeditiously as possible. No administrative expenses may be incurred or paid by the Custodial Trust that are inconsistent with the approved budget, unless a revised budget is approved by the Oversight Agency.

3.3 **Manner of Payment.** Cash payments made by the Custodial Trust pursuant to the Consent Decree and this Agreement shall be in United States dollars by checks drawn on a domestic bank selected by the Custodial Trustee, or by wire transfer from a domestic bank, at the

option of the Custodial Trustee. Notwithstanding anything to the contrary in this Agreement, the Custodial Trust hereby grants to the Governmental Parties a first-priority lien on and security interest in the Custodial Trust Assets to secure the liabilities of the Custodial Trust in accordance with the Consent Decree.

3.4 **Excess Funds Distribution.** Upon certification in writing by the Oversight Agency that all of the Custodial Trustee's obligations for implementing the SOW have been completed and approved, if there are funds remaining in the Custodial Trust in excess of the amount required to make full payment therefore, such excess funds shall be paid to the Washington state toxics control account created under RCW 70.105D.070(2) and/or EPA special account as directed jointly in writing by Ecology and EPA.

3.5 **Compliance with Laws.** Any and all distributions of Custodial Trust Assets shall be in compliance with applicable laws.

3.6 **Payments.** The Custodial Trust may pay funds directly to the contractor for Response Actions approved by the Oversight Agency.

ARTICLE IV

TRUST ADMINISTRATOR

4.1 **Appointment.** The Court, in connection with approval of the Consent Decree, shall have approved the appointment of the Custodial Trustee to serve as the initial trust administrator of the Custodial Trust under the Consent Decree and this Agreement, and the Custodial Trustee hereby accepts such appointment and agrees to serve in such representative capacity, upon the Effective Date. Successor trust administrator(s) may be proposed to the Court by Ecology or EPA, with the written consent of the other Governmental Party.

4.2 **Generally; Fiduciary Responsibilities.** The Custodial Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of the Custodial Trust, as set forth in this Agreement and the Consent Decree, and the Policy and not otherwise. The Custodial Trustee shall seek to manage the Custodial Trust with that degree of judgment, skill and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence, who are familiar with such matters, exercise in the management of

their own affairs. Without limiting the foregoing, the Custodial Trustee shall take all reasonable and prudent steps to minimize the costs of Response Actions, to limit access to the Site and to prevent the spread of contamination. The Custodial Trustee shall comply in all respects with all obligations of the Named Insured under the Policy including, to the extent required thereunder, cooperating with the Insurance Company with respect to any claims under the Policy. To the extent the Custodial Trustee in good faith questions or contests whether any directive, order or request of either of the Governmental Parties is valid, required under or consistent with applicable laws or regulations, the Custodial Trustee shall take all reasonable and prudent steps to resolve such dispute, including, without limitation, invoking the dispute resolution provisions set forth in the Consent Decree. The Custodial Trustee shall have the authority to bind the Custodial Trust, and any successor trustee, or successor or assign of the Custodial Trust, but shall for all purposes hereunder be acting in its representative capacity as Custodial Trustee and not individually. Notwithstanding anything to the contrary contained herein, the Custodial Trustee shall not be required to take action or omit to take any action if, after the advice of counsel, the Custodial Trustee believes such action or omission is not consistent with the Custodial Trustee's fiduciary duties.

4.3 **Powers.** In connection with the administration of the Custodial Trust, except as otherwise set forth in this Agreement or the Consent Decree, the Custodial Trustee is authorized to perform any and all acts necessary and desirable to accomplish the purposes of the Custodial Trust. The powers of the Custodial Trustee, without any further Court approval or order, shall include, without limitation, each of the following: (i) to receive, manage, invest, supervise and protect Custodial Trust Assets as provided in this Agreement; (ii) to withdraw, make distributions and pay taxes and other obligations owed by the Custodial Trust from funds held by the Custodial Trust in accordance with the Consent Decree; (iii) to engage employees and professional Persons to assist the Custodial Trust and/or the Custodial Trustee with respect to the responsibilities described herein; (iv) to make distributions of the Custodial Trust Assets from the Custodial Trust Account(s) for the purposes contemplated in the Consent Decree and this Agreement; and (v) to effect all actions and execute all agreements, instruments and other documents necessary to implement the Consent Decree, the SOW and this Agreement, including to exercise such other powers as may be vested in or assumed by the Custodial Trust or the Custodial Trustee pursuant to this Agreement and any order of the Court or as may be necessary

and proper to carry out the provisions of the Consent Decree. No Person dealing with the Custodial Trust shall be obligated to inquire into the authority of the Custodial Trustee in connection with the protection, conservation or disposition of Custodial Trust Assets. The Custodial Trustee is authorized to execute and deliver all documents on behalf of the Custodial Trust to accomplish the purposes of this Agreement and the Consent Decree.

4.4 **Third Parties.** The Custodial Trust shall have the authority to retain and pay such third parties as the Custodial Trust, in accordance with a budget approved by Ecology and EPA, may deem necessary or appropriate to assist the Custodial Trust in carrying out its powers and duties under this Agreement and the Consent Decree, including, without limitation, (i) counsel to the Custodial Trustee and Custodial Trust, (ii) a public accounting firm to perform such reviews and/or audits of the financial books and records of the Custodial Trust as may be appropriate in the Custodial Trustee's sole discretion and to prepare and file any tax returns or informational returns for the Custodial Trust as may be required, (iii) such environmental consultants as the Custodial Trustee may deem necessary, and (iv) other professional persons necessary to carry out the Custodial Trust's responsibilities under the Consent Decree and this Agreement. The Custodial Trustee may commit the Custodial Trust to pay all such Persons compensation for services rendered and expenses incurred.

4.5 **Other Activities.** The Custodial Trustee shall be entitled to perform services for and be employed by third parties; provided, however, that such performance or employment affords the Custodial Trustee sufficient time to carry out its responsibilities as Custodial Trustee. The Custodial Trustee may delegate the performance of services and the fulfillment of responsibilities to other Persons. Such Persons shall be entitled to be compensated and to be reimbursed for out-of-pocket disbursements in the same manner as the Custodial Trustee.

4.6 **Limitation of Custodial Trustee's Authority.** The Custodial Trustee shall not and is not authorized to engage in any trade or business with respect to the Custodial Trust Assets or any proceeds therefrom except to the extent reasonably necessary to, and consistent with, the Consent Decree.

4.7 **Liability of Custodial Trust Parties.** In no event shall the Custodial Trust Parties be held personally liable for any claim asserted against one or more of the Custodial Trust Parties or the Custodial Trust except for actions or omissions to act to the extent such actions or

omissions to act are determined by a final order of the Court to be due to their own respective gross negligence, willful misconduct, or fraud in relation to the Custodial Trustee's duties after the Effective Date. It shall be an irrebuttable presumption that any action taken or omitted to be taken with the approval of the Court shall not constitute gross negligence, willful misconduct, or fraud. The Custodial Trust Parties shall be indemnified in accordance with Section 4.10 of this Agreement.

4.8 Reliance by Custodial Trustee. Except as may otherwise be provided herein: (a) the Custodial Trustee may rely, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, order, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties; (b) the Custodial Trustee may consult with legal counsel, financial or accounting advisors and other professionals to be selected by it, and the Custodial Trustee shall not be personally liable for any action taken or omitted to be taken by it in accordance with the advice thereof; and (c) Persons dealing with the Custodial Trustee shall look only to the Custodial Trust Assets that may be available to them consistent with the Consent Decree to satisfy any liability incurred by the Custodial Trustee to such Person in carrying out the terms of this Agreement, the Consent Decree or any order of the Court, and the Custodial Trustee shall have no personal obligation to satisfy any such liability.

4.9 Compensation of the Custodial Trustee.

(a) The Custodial Trust shall pay its own reasonable and necessary costs and expenses, and shall reimburse the Custodial Trustee for the actual out-of-pocket fees and expenses to the extent incurred by the Custodial Trustee in connection with the Custodial Trustee's duties hereunder, including, without limitation, necessary travel, lodging, office rent (to be paid directly by the Custodial Trust), postage, personal computer and printer, photo copying, telephone and facsimile charges upon receipt of periodic billings, all in accordance with an annual budget or fee schedule approved by the Oversight Agency. The Custodial Trustee and employees of the Custodial Trust and the Custodial Trustee who perform services for the Custodial Trust shall be entitled to receive compensation for services rendered on behalf of the Custodial Trust.

(b) The Custodial Trust Assets shall be subject to the claims of the Custodial

Trustee, and the Custodial Trustee shall be entitled to reimburse itself out of any available cash in the Trust Account(s), and the Custodial Trust shall be obligated to pay, for actual out-of-pocket expenses that are in accordance with an annual budget or fee schedule approved by the Oversight Agency.

(c) All compensation and other amounts payable to the Custodial Trustee shall be paid from the assets of the Custodial Trust Account(s).

4.10 Exculpation; Indemnification. The Custodial Trust Parties shall be and hereby are exculpated by all Persons, including, without limitation, holders of claims and other parties in interest, of and from any and all claims, causes of action and other assertions of liability arising out of the ownership of the Custodial Trust Assets and the discharge of the powers and duties conferred upon such Custodial Trustee and the Custodial Trust by the Consent Decree, this Agreement, or any order of the Court entered pursuant to or in furtherance the Consent Decree or this Agreement, or applicable law or otherwise, other than actions or omissions to act to the extent determined by a final order of the Court to be due to their own respective gross negligence, willful misconduct, or fraud after the Effective Date. No holder of a claim or other party in interest will have or be permitted to pursue any claim or cause of action against any Custodial Trust Party for making payments in accordance with the Consent Decree, this Agreement, or any order of the Court, or for implementing the provisions of the Consent Decree, this Agreement, or any order of the Court. The Custodial Trust shall indemnify, defend and hold harmless (without the Custodial Trust Parties having to first pay from their own funds) the Custodial Trust Parties from and against any and all claims, causes of action, liabilities, obligations, losses, costs, judgments, damages or expenses (including attorneys' fees) (other than actions or omissions to act to the extent determined by a final order of the Court to be due to their own respective gross negligence, willful misconduct, or fraud after the Effective Date) to the fullest extent permitted by applicable law, provided that such indemnification shall be limited to funds in the Custodial Trust Account(s). It shall be an irrebuttable presumption that any action taken or omitted to be taken with the approval of the Court shall not constitute gross negligence, willful misconduct or fraud.

4.11 Termination; Resignation. The duties, responsibilities and powers of the Custodial Trustee will terminate on the date the Custodial Trust is dissolved under applicable law

in accordance with any order, direction or approval of the Governmental Parties. The Custodial Trustee may resign by giving not less than thirty (30) days prior written notice thereof to Ecology and EPA. The Custodial Trustee may be terminated by the Governmental Parties as provided in Section 2.3 of this Agreement or by order of the Court for (i) negligence, fraud, or willful misconduct immediately upon notice and the appointment of a temporary or permanent successor, and (ii) other cause upon sixty (60) days prior written notice, or otherwise as provided in the Consent Decree.

4.12 Acceptance of Appointment by Successor Trustees. Any successor Custodial Trustee shall be proposed by the Oversight Agency with the written consent of Support Agency and shall be appointed by the Court. Any successor Custodial Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall file such acceptance with the Custodial Trust records. Thereupon, such successor Custodial Trustee shall, without any further act, become vested with all the estates, properties, rights, powers, trusts and duties of its predecessor in the Custodial Trust with like effect as if originally named herein; provided, however, that a removed or resigning Custodial Trustee shall, nevertheless, when requested in writing by the successor Custodial Trustee, execute and deliver an instrument or instruments conveying and transferring to such successor Custodial Trustee under the Custodial Trust all the estates, properties, rights, powers, and trusts of such predecessor Custodial Trustee.

4.13 No Bond. The Custodial Trustee shall serve without bond.

ARTICLE V BENEFICIARIES

5.1 Beneficiaries. Beneficial interests in the Custodial Trust shall be held by each of the Governmental Parties (the "Beneficiaries", and each individually a "Beneficiary").

5.2 Identification of Beneficiaries. In order to determine the actual names, addresses and authorized representatives of the Beneficiaries, the Custodial Trustee shall be entitled to conclusively rely on the names, address and authorized representatives identified in Paragraph 37 of the Consent Decree or in any written notice provided to the Custodial Trustee by an authorized representative of a Beneficiary.

5.3 Transfer of Beneficial Interests. The interest of the Beneficiaries in the

Custodial Trust, which are reflected only on the records of the Custodial Trust maintained by the Custodial Trust, are not negotiable and may be transferred only after written notice to the Custodial Trust, by order of the Court or by operation of law. The Custodial Trust shall not be required to record any transfer in favor of any transferee which, in the sole discretion of the Custodial Trustee, is or might be construed to be ambiguous or to create uncertainty as to the holder of the interest in the Custodial Trust. Until a transfer is in fact recorded on the books and records maintained by the Custodial Trust for the purpose of identifying Beneficiaries, the Custodial Trust, whether or not in receipt of documents of transfer or other documents relating to the transfer, may nevertheless make distributions and send communications to Beneficiaries, as though it has no notice of any such transfer, and in so doing the Custodial Trust and Custodial Trustee shall be fully protected and incur no liability to any purported transferee or any other Person.

ARTICLE VI REPORTING

6.1 **Reports.** As soon as practicable after the end of each quarter, and as soon as practicable upon termination of the Custodial Trust, the Custodial Trustee shall submit to the Governmental Parties a written report, including: (a) financial statements of the Custodial Trust at the end of such quarter or period and the receipts and disbursements of the Custodial Trust for such period; and (b) a description of any action taken by the Custodial Trust in the performance of its duties which, as determined by outside counsel, accountants or other professional advisors, materially and adversely affects the Custodial Trust and of which notice has not previously been given to the Beneficiaries. The Custodial Trustee shall promptly submit additional reports to the Governmental Parties whenever, as determined by outside counsel, accountants or other professional advisors, an adverse material event or change occurs which affects the Custodial Trust or the rights of the Beneficiaries hereunder. In addition, the Custodial Trust shall upon the reasonable request of any Governmental Party provide documentation to the Governmental Parties to substantiate compliance with and application of Custodial Trust Assets consistently with the terms of the Consent Decree and this Agreement.

6.2 **Qualified Settlement Fund Status.** Subject to definitive guidance from the IRS or the Court to the contrary (including the issuance of applicable Treasury Regulations, the

receipt by the Custodial Trust of a private letter ruling if the Custodial Trust so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Custodial Trust), the Custodial Trustee shall file returns for the Custodial Trust as a qualified settlement fund pursuant to Treasury Regulation Section 468B.

6.3 **Other.** The Custodial Trustee shall also file (or cause to be filed) any other statements, returns or disclosures relating to the Custodial Trust, that are required by any governmental unit.

ARTICLE VII

MISCELLANEOUS PROVISIONS

7.1 **Amendment; Waiver.** Any provision of this Agreement may be amended or waived with the written approval of Ecology and EPA, with the written consent of the Custodial Trustee; provided, however, that no change shall be made to this Agreement that would adversely affect the federal income tax status of the Custodial Trust as a "qualified settlement fund" (in accordance with Section 7.2 hereof), if applicable or, unless agreed to in writing by the affected Custodial Trustee, the rights of the Custodial Trustee. Technical amendments to this Agreement may be made as necessary, to clarify this Agreement or enable the Custodial Trust to effectuate the terms of this Agreement, with the written consent of the Custodial Trustee and EPA and Ecology.

7.2 **Intention of Parties to Establish Qualified Settlement Fund.** This Agreement is intended to create a qualified settlement fund pursuant to section 468B of the Internal Revenue Code and related regulations for United States federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as a qualified settlement fund.

7.3 **Preservation of Privilege.** In connection with the rights, claims, and causes of action that constitute the Custodial Trust Assets, any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Custodial Trust shall vest in the Custodial Trust and its representatives, and the Parties are authorized to take all necessary actions to effectuate the transfer of such privileges.

7.4 **Cooperation.** Within sixty (60) days of entry of this Consent Decree, KACC

shall provide the Custodial Trust with copies of all non-privileged files of the Mead Aluminum Reduction Works in KACC's possession regarding conditions at the Site, the liability of any person for response actions at the Site, the tasks to be performed under the SOW, and the Custodial Trust's duties and powers in connection with the Site. No claim of privilege shall be made with respect to any data, including but not limited to all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing Site conditions. KACC shall have no affirmative obligation under this Paragraph to search for, locate, obtain, or produce documents other than from the files of the Mead Aluminum Reduction Works.

7.5 Prevailing Party. If the Custodial Trustee or the Custodial Trust, as the case may be, is the prevailing party in a dispute regarding the provisions of this Agreement or the enforcement thereof, the Custodial Trustee or the Custodial Trust, as the case may be, shall be entitled to collect any and all costs, expenses and fees, including attorneys' fees, from the non-prevailing party incurred in connection with such dispute or enforcement action. This Section 7.5 shall not apply to any Governmental Parties.

7.6 Laws as to Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington and the United States, without giving effect to rules governing the conflict of law that would require the application of the law of another jurisdiction.

7.7 Severability. If any provision of this Agreement or application thereof to any Person or circumstance shall be finally determined by the Court to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

7.8 Sufficient Notice. Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the Person for whom such notice is

intended to the name and address set forth in Paragraph 37 of the Consent Decree or in any written notice provided to the Custodial Trustee by an authorized representative of a Beneficiary.

7.9 **Headings.** The section headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or any term or provision hereof.

7.10 **Actions Taken on Other Than Business Day.** If any payment or act under this Agreement or the Consent Decree is required to be made or performed on a date that is not a business day, then the making of such payment or the performance of such act may be completed on the next succeeding business day, but shall be deemed to have been completed as of the required date.

7.11 **Consistency of Agreements; Construction.** To the extent reasonably possible, the provisions of this Agreement shall be interpreted in a manner consistent with the Consent Decree. Where the provisions of this Agreement are irreconcilable with the provisions of the Consent Decree, the provisions of the Consent Decree shall prevail.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Custodial Trust Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers as the latest date set forth below.

DANIEL J. SILVER,
solely in the representative capacity of Custodial Trustee
and not individually

By: _____
Daniel J. Silver

Date: _____

KAISER ALUMINUM & CHEMICAL CORPORATION,
a Delaware corporation

By: _____

Its: _____

5847 San Felipe, Suite 2500
Houston, TX 77057

Date: _____

ATTACHMENT I

LEGAL DESCRIPTION OF THE PROPERTY

That portion of the N1/2 of Section 16, Township 26 North, Range 43 East, W.M., Spokane County, Washington, described as follows:

Beginning at the northwest corner of the NE1/4 of said Section 16; thence S89°43'12"E, along the north line of said NE1/4, 1434.06 feet; thence S00°16'48"W 282.18 feet; thence N89°33'44"W 113.58 feet; thence S77°05'46"W 36.12 feet; thence S52°17'25"W 39.40 feet; thence S14°29'52"W 38.03 feet; thence S01°12'06"W 94.75 feet; thence S07°38'50"W 51.71 feet; thence S15°55'21"W 17.49 feet; thence S38°09'37"W 17.43 feet; thence S50°42'00"W 20.27 feet; thence S59°31'40"W 20.34 feet; thence N88°42'33"W 726.66 feet; thence N01°17'27"E 11.00 feet; thence N88°42'33"W 15.00 feet; thence S01°17'27"W 11.00 feet; thence N88°42'33"W 94.37 feet; thence N87°44'02"W 47.70 feet; thence S82°38'28"W 36.46 feet; thence N05°56'23"W 17.41 feet; thence N52°01'54"W 93.74 feet; thence N16°26'32"W 92.27 feet; thence S88°30'33"E 16.98 feet; thence N01°56'24"W 184.84 feet; thence S83°47'26"W 52.25 feet; thence N11°03'37"W 52.72 feet; thence S81°14'41"W 87.18 feet; thence S18°34'20"W 131.33 feet; thence S00°00'00"W 87.95 feet; thence S88°30'33"E 158.37 feet; thence S16°26'32"E 103.88 feet; thence S45°16'16"E 96.10 feet; thence S82°40'40"W 172.41 feet; thence S54°17'07"W 100.89 feet; thence N88°56'22"W 632.94 feet; thence S83°26'27"W 48.69 feet; thence S88°47'23"W 68.36 feet; thence N88°34'23"W 743.22 feet; thence N03°09'30"W 463.21 feet; thence S89°16'07"E 215.19 feet; thence N38°52'22"E 194.44 feet to a point on the north line of the NW1/4 of said Section 16; thence S89°33'04"E, along said north line, 1193.06 feet to the Point of Beginning;

ATTACHMENT II

LEGAL DESCRIPTION OF MEAD PARCEL 1

Surveyor's Note:

Data in brackets [] is record data per description shown on the Quitclaim Deed, recorded February 13, 1976, as Auditor's File No. 7602130461.

A parcel of land in Section 16, Township 26 North, Range 43 East of the Willamette Meridian, Spokane County, Washington, being a portion of that certain tract of land acquired for the United States of America Bonneville Power Administration, shown in a Judgment on a Declaration of Taking in the District Court of the United States for the Eastern District of Washington, Northern Division, Civil Action No. 228 in said court, dated November 12, 1941, more particularly described as follows:

BEGINNING at a point on the North line of Section 16 and which bears S89°43'12"E 427.10 feet [South 89°45' West 427.1 feet] from the Northeast corner of said Section; thence S00°05'06"E 499.95 feet [South 00°37' East 500.1 feet]; thence N44°29'08"W 704.15 feet [North 45°00' West 704.2 feet] to the North line of said Section 16; thence S89°43'12"E [North 89°45' East], along the North line of said Section, 492.68 feet [492.6 feet] to the Point of Beginning.

TOGETHER WITH a parcel of land lying in the North half of Section 16, Township 26 North, Range 43 East, W.M., Spokane County, Washington described as:

Surveyor's Note:

Data in brackets [] is record data per description shown on the Quitclaim Deed, recorded December 16, 1949, as Auditor's File No. 923278A

BEGINNING at the northwest corner of said Section 16; thence S89°33'04"E [North 89°56' East], along the north line of said Section 16, a distance of 2,613.41 feet [2613.2 feet] to the quarter section corner on the north line of said Section 16; thence S89°43'12"E [North 89°45' East], along the north line of said Section 16, a distance of 1727.49 feet [1728.2 feet]; thence S44°29'08"E 704.15 feet [South 45° East 704.2 feet]; thence S00°45'39"W 1337.81 feet [South 00°14' West 1338.2 feet]; thence S45°44'21"W 352.93 feet [South 45°14' West 1338.2 feet] to the northerly right-of-way line of the Graves Road (now known as Hawthorne Road); thence S89°15'08"E [South 89°46' East], along the Northerly right-of-way line of said road, 477.78 feet [478.5 feet]; thence on a 924.93 foot [924.9 foot] radius curve to the left (the long chord of which bears N83°48'01"East 223.75 feet [North 83°16' East 224.1 feet]), 224.30 feet to the East line of said Section 16; thence S00°05'31"E [South 00°39' East], along the East line of said

Section 16, a distance of 87.07 feet [87.1 feet] to a point on the Southerly right-of-way line of said County Road, said point being N00°05'31"W 500.00 feet [N00°39' West a distance of 500 feet] from the quarter section corner on the East line of said Section 16; thence N89°15'08"W [North 89°46' West], along the Southerly right-of-way line of said road, 2171.72 feet [2,172 feet]; thence S00°45'39"W 189.94 feet [South 00°14' West 190 feet]; thence N89°15'24"W 2216.97 feet [North 89°46' West 2,217.2 feet] to a point on the Northwesterly right-of-way line of said Graves Road (now known as Hawthorne Road); thence N52°49'18"W 1102.21 feet [North 53°20' West a distance of 1,103.1 feet] to the West line of said Section 16; thence N00°10'27"E 1651.20 feet [North 00°21' West a distance of 1,651.2 feet] along the West line of said Section 16, to the Point of Beginning;

EXCEPT that portion thereof conveyed to Spokane County for Graves Road (now known as Hawthorne Road) by deed recorded December 19, 1942, under Auditor's File No. 569878A.

AND EXCEPT that portion of the N1/2 of Section 16, Township 26 North, Range 43 East, W.M., Spokane County, Washington, described as follows:

Beginning at the northwest corner of the NE1/4 of said Section 16; thence S89°43'12"E, along the north line of said NE1/4, 1434.06 feet; thence S00°16'48"W 282.18 feet; thence N89°33'44"W 113.58 feet; thence S77°05'46"W 36.12 feet; thence S52°17'25"W 39.40 feet; thence S14°29'52"W 38.03 feet; thence S01°12'06"W 94.75 feet; thence S07°38'50"W 51.71 feet; thence S15°55'21"W 17.49 feet; thence S38°09'37"W 17.43 feet; thence S50°42'00"W 20.27 feet; thence S59°31'40"W 20.34 feet; thence N88°42'33"W 726.66 feet; thence N01°17'27"E 11.00 feet; thence N88°42'33"W 15.00 feet; thence S01°17'27"W 11.00 feet; thence N88°42'33"W 94.37 feet; thence N87°44'02"W 47.70 feet; thence S82°38'28"W 36.46 feet; thence N05°56'23"W 17.41 feet; thence N52°01'54"W 93.74 feet; thence N16°26'32"W 92.27 feet; thence S88°30'33"E 16.98 feet; thence N01°56'24"W 184.84 feet; thence S83°47'26"W 52.25 feet; thence N11°03'37"W 52.72 feet; thence S81°14'41"W 87.18 feet; thence S18°34'20"W 131.33 feet; thence S00°00'00"W 87.95 feet; thence S88°30'33"E 158.37 feet; thence S16°26'32"E 103.88 feet; thence S45°16'16"E 96.10 feet; thence S82°40'40"W 172.41 feet; thence S54°17'07"W 100.89 feet; thence N88°56'22"W 632.94 feet; thence S83°26'27"W 48.69 feet; thence S88°47'23"W 68.36 feet; thence N88°34'23"W 743.22 feet; thence N03°09'30"W 463.21 feet; thence S89°16'07"E 215.19 feet; thence N38°52'22"E 194.44 feet to a point on the north line of the NW1/4 of said Section 16; thence S89°33'04"E, along said north line, 1193.06 feet to the Point of Beginning.

EXHIBIT C
TO MEAD CONSENT DECREE

SCOPE OF WORK

Scope of Work

Kaiser Mead NPL Site
Mead, Washington

July 28, 2004

INTRODUCTION

This Scope Of Work (SOW) has been developed to accompany a Consent Decree between Kaiser Aluminum, the U.S. Environmental Protection Agency, the Washington Department of Ecology, and Insurance Company regarding the Site. Capitalized terms used in the SOW shall have the meaning defined in the Consent Decree, unless a different definition is contained herein.

When entered, the Consent Decree will obligate Kaiser Aluminum to transfer the Site to the Trust, and obligate the Trust to implement this SOW. It will obligate Kaiser to fund an Insurance Policy (the Trust will be the named insured and the Governmental Parties will be additional insureds) to ensure completion of tasks identified in the Remedial Action Plan ("RAP") for the policy. The Consent Decree will obligate the Trust to perform the tasks contained in the RAP, pursuant to the Insurance Policy. The Consent Decree also will obligate Kaiser to fund the Trust directly to perform the tasks contained in this SOW that are not contained in the RAP.

As Kaiser is in bankruptcy, the Consent Decree will be submitted to the bankruptcy court for approval after public notice and opportunity for comment. The schedule for remedial actions set forth in the SOW is based upon the date of bankruptcy court approval of entry of the Consent Decree.

WORK TASKS

The tasks to be performed by the Trust or its contractors under this SOW are as follows:

Task 1 Implement RAP

- Carry out the tasks set forth in Exhibit A, the RAP, as described therein, and in accordance with the schedule set forth therein.

Task 2 Spent Potlining Pile Cap

- Inspect the Spent Potlining Pile Cap semi-annually for the first two years following entry of the Consent Decree and then annually thereafter. Inspections shall be

performed by a registered professional engineer or hydrogeologist or equivalent, with experience in hazardous waste site investigation and cleanup. The inspection shall include, but not be limited to, a determination of uneven settlement, cracking or breaching of the cap, presence of vegetation, or any other conditions that may compromise the integrity of the cap.

- Following each inspection, the inspector shall prepare an inspection report documenting all observations and any measurements, including any photographs taken. The report shall be submitted to the Oversight Agency within 45 days of the inspection.
- If the inspection report reveals that there has been any inadequacy in the integrity of the cap, including but not be limited to uneven settlement, cracking or breaching of the cap, or presence of vegetation, corrective action, which may include repair or replacement, shall be taken promptly by the Trust following Oversight Agency approval of the corrective action.

Task 3 Asphalt Covered Areas

- Inspect the Asphalt Covered Areas semi-annually for the first two years following entry of the Consent Decree and annually thereafter. Inspections shall be performed by a registered professional engineer or hydrogeologist or equivalent, with experience in hazardous waste site investigation and cleanup. The inspection shall include, but not be limited to, a determination of uneven settlement, cracking or breaching of the asphalted areas, presence of vegetation, or any other conditions that may compromise the integrity of the asphalted areas.
- Following each inspection, the inspector shall prepare an inspection report documenting all observations and any measurements, including any photographs taken. The report shall be submitted to Oversight Agency within 45 days of the inspection.
- If the inspection report reveals that there has been any inadequacy in the integrity of the asphalted areas, including but not be limited to uneven settlement, cracking or breaching of the asphalted areas, or presence of vegetation, corrective action, which may include repair or replacement, shall be taken promptly by the Trust following Oversight Agency approval of the corrective action.

Task 4 Drainage Features for Spent Potlining Pile Cap and Asphalt Covered Areas

- Inspect the Drainage Features related to the Spent Potlining Pile Cap and the Asphalt Covered Areas semi annually following entry of the Consent Decree. Inspections shall be performed by a registered professional engineer or hydrogeologist or

equivalent, with experience in hazardous waste site investigation and cleanup. The inspection shall include, but not be limited to, a determination of uneven settlement, ponding of water, cracking or breaching of the drainage features, presence of vegetation or debris that might inhibit the flow of storm water and snow melt, or any other conditions that may compromise the integrity or utility of the drainage features.

- Following each inspection, the inspector shall prepare an inspection report documenting all observations and any measurements, including any photographs taken. The report shall be submitted to the Oversight Agency within 45 days of the inspection.
- If the inspection report reveals that there has been any inadequacy in the integrity or utility of the drainage features, including but not be limited to uneven settlement, ponding of water, cracking or breaching of the drainage features, or presence of vegetation or debris that might inhibit the flow of storm water and snow melt, corrective action shall be taken promptly by the Trust following Oversight Agency approval of the corrective action.

Task 5 Inspection of Storm and Sanitary Sewer Lines

- Inspect the Storm and Sanitary Sewer Lines every 10 years following entry of the Consent Decree. Inspections shall be performed by an independent contractor, with experience in determining the integrity of gravity pipeline systems. The inspection shall include, but not be limited to, a determination of uneven settlement, cracking or breaching of the sewer lines, presence of obstructions that might inhibit the flow of storm water and snow melt, or any other conditions that may compromise the water tightness of the sewer lines. Those sewer lines identified in Kaiser Mead Works Pipe Leak and Groundwater Infiltration Evaluation (MFG, May 2000) shall be the subject of the above described inspection program. Inspections shall continue unless and until the Storm and Sanitary Sewer Lines located above the groundwater recharge area are deactivated.
- Following each inspection, the inspector shall prepare an inspection report documenting all observations and any measurements, including any photographs taken. The report shall be submitted to the Oversight Agency within 45 days of the inspection.
- If the inspection report reveals that there has been any inadequacy in the integrity of the sewer lines, including but not be limited to uneven settlement, cracking or breaching of the sewer lines, or the presence of obstructions that might inhibit the flow of storm water and snow melt, corrective action shall be taken promptly by the Trust following Oversight Agency approval of the corrective action.

Task 6 Institutional Controls.

The Custodial Trust shall implement any institutional controls, including but not limited to restrictive easements or covenants, requested by the Governmental Parties to prohibit Site activities that interfere with the operation, maintenance or monitoring necessary to assure the integrity of the cleanup action and the continued protection of human health and the environment. Such institutional controls will ensure that no groundwater is removed for domestic purposes from the Site, prevent the Trust from taking actions that interfere with the integrity of the cap, and prevent exposure of future Site occupants to the site contaminants.

Task 7 Further Response Actions

Upon expiration of the term of the Insurance Policy that funds RAP tasks, the Custodial Trust shall confer with the Oversight Agency regarding any additional response actions that may be necessary at the Site. Following discussions with the Oversight Agency, the Custodial Trust shall prepare a work plan for any response actions determined necessary and shall submit such work plan to the Oversight Agency for review and approval. Following Oversight Agency Approval, the Custodial Trust shall implement the work plan in accordance with any direction provided by the Oversight Agency.

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Remedial Action Plan

Kaiser Mead NPL Site
Mead, Washington

July 28, 2004

Exhibit A to Scope Of Work

INTRODUCTION

This document is the Remedial Action Plan (RAP) for the Site. The RAP has been developed to accompany the Insurance Policy which will be purchased by Kaiser pursuant to a Consent Decree between Kaiser Aluminum, the U.S. Environmental Protection Agency, the Washington Department of Ecology, and Insurance Company. Capitalized terms used in the RAP shall have the meaning defined in the Consent Decree, unless a different definition is contained herein.

When entered, the Consent Decree will obligate Kaiser Aluminum to transfer the Site to the Trust, fund the Trust, and fund the Insurance Policy (the Trust will be the named insured and the Governmental Parties will be additional insureds) to ensure that the tasks contained in the RAP are completed. The Consent Decree will define the legal obligations of the Trust, including its obligation to implement the RAP.

The RAP outlines the remedial actions to be undertaken by the Trust at the Site. The Consent Decree contains dispute resolution procedures, which apply in the event of a dispute regarding implementation of the Consent Decree, such as any dispute regarding the Oversight Agency's exercise of discretion under Tasks 4 and 5.

As Kaiser is in bankruptcy, the Consent Decree will be submitted to the bankruptcy court for approval after public notice and opportunity for comment. The schedule for remedial actions set forth in this RAP is based upon the date of bankruptcy court approval of entry of the Consent Decree.

REMEDIAL ACTIONS

The remedial actions to be performed by the Trust or its contractors under this RAP are as follows:

Task 1 Water System Pressure Mains

- Replace the water system pressure mains located above the groundwater recharge area, as identified in Figure 1 of Pressure Piping System Additional Source Controls (MFG, February 2004), within 18 months of the entry of the Consent Decree.

- Make quarterly inspections of the replaced water system pressure mains. Inspections shall be performed by an independent contractor, with experience in determining the integrity of pressure piping systems. The inspections shall include, but not be limited to, a determination and location of any leakage, or any other conditions that may compromise the water tightness of the pressure piping system. Leak detection methods shall include those recommended in Pressure Piping System Leak Detection Design Report (MFG, January 2004). Inspections and leak detection shall continue unless and until the water systems located above the groundwater recharge area are deactivated.
- Following each inspection, the inspector shall prepare an inspection report documenting all observations and measurements, including any photographs taken. The report shall be submitted to the Oversight Agency within 45 days of the inspection.
- If the inspection report reveals that there has been any inadequacy in the integrity of the water system pressure mains, including but not be limited to any leakage or any other conditions that may compromise the water tightness of the pressure piping system, corrective action shall be taken promptly by the Trust following Oversight Agency approval of the corrective action.

Task 2 Groundwater Monitoring Program

- In accordance with the Groundwater Monitoring Plan (MFG, August 2004 Draft, subject to the Oversight Agency's approval of well locations and completion specifications), the Trust shall install the monitor well series identified as KM – 1 through KM – 6 (KM-1 is an existing well) and monitor well series KMCP – 1 through KMCP – 5 within 6 months of the entry of the Consent Decree.
- Sample the monitoring wells referenced above monthly for the first two years after installation, and then quarterly thereafter. Samples shall be analyzed for the following constituents using EPA approved analytical methods:
 - Total Cyanide
 - Weak Acid Dissociable (WAD) Cyanide
 - Fluoride
 - Conductivity
 - Temperature
 - PH
- The water table elevations at each of the above referenced monitoring wells shall also be determined at the time of each sampling event.
- Following each sampling event, a report documenting all observations, measurements, and analytical results, including any photographs taken shall be prepared. The report shall be submitted to the Oversight Agency within 30 days of receiving the analytical results.

Task 3 Little Spokane River Monitoring Program

- The Little Spokane River shall be sampled at the following monitoring locations, as identified in Surface Water Mixing Report (Parametrix, January 2004):
 - W-24 (Little Spokane River at Dartford)
 - W-2326 (Rubright Spring)
 - W-195 (Lake Spring)
- Sample the monitoring locations referenced above quarterly following entry of the Consent Decree. Samples shall be analyzed for the following constituents using EPA approved analytical methods:
 - Total Cyanide
 - Weak Acid Dissociable (WAD) Cyanide
 - Fluoride
 - Conductivity
 - Temperature
 - PH
- Following each sampling event, a report documenting all observations, measurements, and analytical results, including any photographs taken shall be prepared. The report shall be submitted to the Oversight Agency within 30 days of receiving the analytical results.

Task 4 Groundwater MTCA/CERCLA Performance Evaluation

- Conduct one or more Performance Evaluations to determine whether cyanide and fluoride concentrations in groundwater have attained MTCA and CERCLA requirements at the downgradient southwestern border of Parcel 6, including that area that borders State Highway 2 (the legal description of Parcel 6 is attached hereto as RAP Attachment I), based on the MTCA and CERCLA regulations applicable at the time of the Performance Evaluation. A Performance Evaluation shall consist of an evaluation, using the methods specified in then-applicable MTCA and CERCLA regulations, of groundwater monitoring results (from Task 2) collected during four consecutive (4) quarters preceding the Performance Evaluation.
- The date 60 months after replacement of water system pressure mains is completed under Task 1 shall be referred to herein as the "Evaluation Date."
- The Trust may conduct a Performance Evaluation at any time, but must complete at least one Performance Evaluation no later than two months after receiving the results of the first four quarters of monitoring that occur following the Evaluation Date.

- If the Oversight Agency determines that a Performance Evaluation demonstrates that cyanide and fluoride concentrations have attained MTCA and CERCLA requirements, then the Trust is not required to perform Task 5 at that time, but must continue Task 2 groundwater monitoring as confirmational monitoring in accordance with then-applicable MTCA and CERCLA regulations.
- If the Oversight Agency determines that a Performance Evaluation completed after the Evaluation Date indicates that cyanide or fluoride concentrations in groundwater do not meet MTCA and CERCLA requirements, the Oversight Agency may require the Trust to implement Task 5.

Task 5 Potential Supplemental Feasibility Study and Supplemental Remedial Action

- If the Oversight Agency determines that a Performance Evaluation completed after the Evaluation Date indicates that cyanide or fluoride concentrations in groundwater do not meet MTCA and CERCLA requirements at the downgradient southwestern border of Parcel 6, including that area that borders State Highway 2 (the legal description of Parcel 6 is attached hereto as RAP Attachment I), prepare a Supplemental Feasibility Study ("SFS") evaluating groundwater remedial action alternatives for the Site, in accordance with the MTCA and CERCLA regulations applicable at that time. Oversight Agency shall approve the work plan for the SFS. The SFS shall be completed within 6 months after such determination is made, or after final resolution of the administrative phase of the dispute resolution process if such determination is contested, unless the Oversight Agency approves a longer period in writing, or a stay is obtained from the Court subsequent to the administrative phase of the dispute resolution process.
- The Oversight Agency shall have the authority to select a Supplemental Groundwater Remedial Action based on the SFS and the administrative record for the Site, and in accordance with the MTCA and CERCLA regulations applicable at that time. The Supplemental Groundwater Remedial Action selected by The Oversight Agency shall be implemented by the Trust, in accordance with a schedule to be specified by the Oversight Agency in accordance with MTCA and CERCLA.
- At any time following completion of replacement of water system pressure mains under Task 1, the Trust may request the Oversight Agency's approval for the installation of a Supplemental Groundwater Remedial Action or Actions.
- The Supplemental Groundwater Remedial Action shall be implemented until the groundwater complies with MTCA and CERCLA requirements.

Task 6 Project Management and Communications

- The Custodial Trustee shall ensure that the contractor is responsible for procurement of all equipment necessary to perform Tasks, procurement and supervision of all subcontractors, oversight of all inspection, monitoring, and maintenance Tasks, construction quality assurance, and field reporting.
- The Custodial Trustee shall ensure that the contractor is obligated to (i) provide monthly progress reports to the Trust and each of the Governmental Parties and (ii) attend project status and review meetings upon request.

RAP Attachment I

Legal Description of Parcel 6

That portion of Section 9, Township 26 North, Range 43, East of the Willamette Meridian, lying Southeasterly of P.S.H. No. 6;

EXCEPT the South 500 feet of said Section 9;

AND EXCEPT that portion condemned by the State of Washington by Spokane County Superior Court Cause No. 86200900-5;

AND EXCEPT that portion condemned by the State of Washington by Spokane County Superior Court Cause No. 01204180-5;

Situated in the County of Spokane, State of Washington.

EXHIBIT D
TO MEAD CONSENT DECREE

EASEMENT AGREEMENT

**FILED FOR RECORD AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:**

The Mead SPL Site Custodial Trust,
Created under the Custodial Trust Agreement dated _____, 2004
c/o Daniel J. Silver, in the representative capacity of Custodial Trustee

Document Title:	Easement Agreement
Grantor:	Kaiser Aluminum Properties, Inc., a Delaware corporation
Grantee:	The Mead SPL Site Custodial Trust
Legal Description (Abbreviated):	Portion of Section 9, Township 26 North, Range 43 East Willamette Meridian, lying southeasterly of P.S.II. No. 6 and Portion of the North Half of Section 16, Township 26 North, Range 43 East Willamette Meridian in Spokane County, Washington
Additional Legal Description:	See Page A-1, Page B-1, Page C-1 of the document
Assessor's Tax Parcel No.:	36165.9001; 36161.9009; 36095.9022
Reference No. of Documents Released or Assigned:	N/A

THIS EASEMENT AGREEMENT (this "Agreement") is made as of _____, 2004, by and between KAISER ALUMINUM PROPERTIES, INC., a Delaware corporation ("Grantor"), and the MEAD SPL SITE CUSTODIAL TRUST, a trust created under the Custodial Trust Agreement dated _____, 2004 ("Grantee"), with reference to the following facts:

A. Grantor is the owner of that certain parcel of real property located in Spokane County, Washington generally known as Parcel 6 and legally described on Exhibit A attached hereto ("Parcel 6"), the servient estate.

B. Grantor's parent, Kaiser Aluminum & Chemical Corporation ("KACC"), has conducted investigation and remedial action activities under the State of Washington Model Toxics Control Act, which investigation and remedial action revealed the presence of cyanide and fluoride in a plume in the groundwater beneath the portion of Parcel 6 depicted in Exhibit C-1 attached hereto (the "Plume").

C. Concurrently herewith and pursuant to a Consent Decree among KACC, the Washington State Department of Ecology, the United States Environmental Protection Agency and American International Specialty Lines Insurance Company, Cause No. _____ (the "Consent Decree"), KACC is conveying to Grantee that certain parcel of real property located in Spokane County, Washington generally known as the SPL Site and legally described on Exhibit B attached hereto ("SPL Site"), the dominant estate.

D. In connection with the conveyance of the SPL Site to Grantee and as provided by the Consent Decree, KACC has agreed to cause Grantor to create an easement to serve the SPL Site over, under, across and through the portion of Parcel 6 described on Exhibit C and depicted on Exhibit C-1 attached hereto (the "Easement Area") for environmental sampling, monitoring, well maintenance, well construction, well repair, remediation and other cleanup activities and response actions relating to the Plume (collectively, "Response Actions") and for ingress and egress necessary to conduct such Response Actions.

E. The parties desire to set forth their understanding regarding the establishment, operation, use and maintenance of the Easement Area.

NOW, THEREFORE, in consideration of the foregoing recitals and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Easement: Access to Additional Well. Grantor does hereby confirm, establish and grant to and for the benefit of the SPL Site, its owners, successors and assigns a non-exclusive easement, without rent, fee, or consideration, for the conduct of Response Actions on, over, under or across the Easement Area and for ingress and egress of vehicular and pedestrian traffic over,

across and through the Easement Area as reasonably necessary or desirable to permit the owner of the SPL Site to conduct the Response Actions (the "Easement"). Such activities may include, without limitation, the installation of groundwater compliance monitoring wells. In addition to the Easement, the owner of the SPL Site shall have access, at reasonable times upon reasonable advance notice to the owner of Parcel 6, to the groundwater monitoring well known as HC-11 located on Parcel 6 and depicted on Exhibit C-2 attached hereto, for purposes of groundwater sampling and monitoring, well maintenance and well repair.

2. Unencumbered Use of Parcel 6. The establishment of the Easement shall not prevent the owner of Parcel 6 and the owner of the Easement Area (if different) from using Parcel 6 and the Easement Area for any use or purpose whatsoever, provided such use or purpose is not inconsistent with the Easement or is otherwise authorized as provided in this Agreement. Without limiting the foregoing, the parties acknowledge that such use or purpose is unencumbered and may include, but not be limited to, any development, construction, land use or other lawful use or purpose that is not inconsistent with the Easement or is otherwise authorized under this Agreement. For the sake of clarity, so long as access to any monitoring well or remediation equipment installed at, on or under the Easement Area is reasonably available, any development, construction or other use of Parcel 6, including the Easement Area, will not be deemed inconsistent with the Easement.

3. Easement Area Owner Covenants. The owner of the Easement Area shall not extract or use groundwater from the Plume, except for any testing, monitoring or other purposes as may be permitted or required under applicable laws, regulations or orders of governmental agencies. Further, except to the extent permitted by this Agreement, the owner of the Easement Area shall not take any action that interferes with any Response Actions being performed or having been performed by the owner of the SPL Site at, on or under the Easement Area.

4. Interference with Use of the Easement Area. The owner of the SPL Site shall use the Easement and the right of access to Well HC-11 in a reasonable manner and only for the purposes provided in Section 1 above, and shall avoid disturbing the owner of Parcel 6 and the owner of the Easement Area and their tenants, employees, agents, licensees, invitees and contractors to the maximum extent possible; provided, that the owner of the Easement Area acknowledges that the activities that may be undertaken pursuant to the Easement may disturb or interfere with ingress to and egress from portions of the Easement Area and with the use of portions of the Easement Area by the owner of the Easement Area from time to time, despite reasonable efforts to avoid such, and that the owner of the SPL Site shall in no event be liable to the owner of the Easement Area or any other person in connection with any such disturbance or interference. Without limiting the foregoing, the owner of the SPL Site shall endeavor to give the owner of the Easement Area not less than seven (7) calendar days' prior written notice of the conduct of any sampling, monitoring or other Response Actions, including any installation of environmental monitoring or remediation equipment, on, under or at the Easement Area pursuant to the Easement; provided, that the owner of the Easement Area

acknowledges that the owner of the SPL Site may be unable to give such notice due to requirements of governmental agencies or applicable laws or regulations.

5. Coordination. In the event that the owner of the Easement Area determines that any of the environmental monitoring or remediation equipment to be installed or located on, under or at the Easement Area pursuant to the Easement would be located in a manner that would interfere with the use of the Easement Area by the owner of the Easement Area or its tenants, employees, agents, licensees, invitees or contractors, the owner of the Easement Area may give written notice of the same to the owner of the SPL Site prior to the installation of such equipment. Following receipt of such written notice, the owner of the SPL Site shall work with the owner of the Easement Area to determine a reasonable alternative location for such equipment if an alternative location is permitted under applicable laws, regulations or orders of governmental agencies; provided, that the owner of the SPL Site may reasonably determine the location for installation of such equipment and proceed with the proposed installation if the parties are unable to agree upon an alternative location by the date on which the owner of the SPL Site must begin work to comply with applicable laws and regulations or orders of governmental agencies.

6. Maintenance Responsibilities and Liability. The owner of the SPL Site shall maintain any environmental monitoring or remediation equipment installed on, under or at the Easement Area. The owner of the SPL Site may remove any such equipment from the Easement Area at any time but shall not be required to do so except upon termination of this Agreement as provided in Section 7. Each of the owner of the SPL Site and the owner of the Easement Area shall be responsible for damage (including personal injury) caused, whether negligently or otherwise, by such owner or by such owner's tenants, employees, agents, invitees, licensees, or contractors in connection with the use of the Easement Area, except to the extent that any said damage may be attributed to any act or omission of the other party or its employees, assignees, or invitees.

7. Authorized Use, Termination. Notwithstanding anything in this Agreement to the contrary, the owner of the Easement Area may use the Easement Area in a manner inconsistent with the Easement or the terms of this Agreement provided that the owner of the Easement Area obtains prior written approval from whichever of the Washington State Department of Ecology or the United States Environmental Protection Agency is serving as the lead agency overseeing implementation of the Consent Decree and the Statement of Work attached thereto (the applicable agency, the "Oversight Agency"). In addition, the owner of the Easement Area may record an instrument terminating this Agreement and indicating that the Easement shall be of no further force or effect provided such owner obtains prior written approval from the Oversight Agency.

8. Rights Not Separately Assignable; Limitation on Liability. The rights granted under this Agreement, including the Easement, are appurtenant to the SPL Site. The owner of the SPL Site shall have no right to transfer any of the rights granted under this Agreement except in direct proportion to any transfer of the ownership of the SPL Site; provided, that the tenants, employees,

agents, licensees, invitees and contractors of the owner of the SPL Site, including any employees, contractors or agents of governmental environmental agencies, may exercise any of the rights of the owner of the SPL Site under the Easement. In the event of any conveyance of the SPL Site or the Easement Area, the transferor shall be relieved of all liability under this Agreement. Notwithstanding any other provision of this Agreement, the liability of the owner of the Easement Area and the owner of the SPL Site under this Agreement shall be limited to such party's interest in the Easement Area or the SPL Site, as the case may be.

9. Environmental Agency Rights. The Grantor on behalf of itself and its successors and assigns, and the Grantee on behalf of itself and its successors, transferees, and assigns, hereby agree that the Washington State Department of Ecology and the United States Environmental Protection Agency shall be third party beneficiaries of all the benefits and rights granted the owner of the SPL Site in this Agreement. Nothing in this Agreement is intended to limit any enforcement or other rights of the Washington State Department of Ecology or the United States Environmental Protection Agency under environmental laws or regulations.

10. Governing Law. This Agreement shall be construed under and enforced in accordance with the laws of the State of Washington without regard to any conflicts of laws principles.

11. Successors and Assigns; Notices to Agencies. All of the terms and conditions of this Agreement shall run with the land and shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto, including without limitation, all subsequent owners of the SPL Site and the Easement Area and all persons claiming through or under them. The owner of the Easement Area shall provide reasonable notice in writing to the owner of the SPL Site, the Washington State Department of Ecology and the United States Environmental Protection Agency at least thirty (30) days prior to a transfer of interest in the Easement Area, to the extent such period is practical, and as soon as possible in all other cases.

12. Attorneys' Fees. In the event any action or proceeding is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to recover, as a part of the prevailing party's costs, reasonable attorneys' fees. Notwithstanding the foregoing, in no event shall a party have any right to recover costs or attorneys' fees from the Washington State Department of Ecology or the United States Environmental Protection Agency.

13. Final and Complete Expression. This Agreement constitutes the final and complete expression of the parties with respect to the transactions contemplated herein and may not be modified, amended, altered, superseded or terminated except by an agreement in writing signed by all of the then owners of the Easement Area and the SPL Site.

14. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

[Signatures on Next Page]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement as of the date first set forth above.

Grantor:

KAISER ALUMINUM PROPERTIES, INC.,
a Delaware corporation

By: _____

Name: _____

Its: _____

Grantee:

THE MEAD SPL SITE
CUSTODIAL TRUST

By: _____

Name: _____

Its: _____

STATE OF _____)
)ss.
COUNTY OF _____)

On this _____ day of _____, 2004 before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared _____, to me known to be the person who executed the within instrument and on oath stated that he is authorized to execute said instrument as _____ for Kaiser Aluminum Properties, Inc., the corporation that executed the within instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

Print Name

NOTARY PUBLIC in and for the State
of _____, residing in

My commission expires: _____

(SEAL)

STATE OF _____)
)ss.
COUNTY OF _____)

On this _____ day of _____, 2004 before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared Daniel J. Silver, to me known to be the person who executed the within instrument and on oath stated that he is authorized to execute said instrument as Custodial Trustee for The Mead SPL Site Custodial Trust that executed the within instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Custodial Trust, for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

Print Name

NOTARY PUBLIC in and for the State
of _____, residing in

(SEAL)

My commission expires:_____

EXHIBIT A

(Description of Parcel 6 – Servient Estate)

That portion of Section 9, Township 26 North, Range 43, East of the Willamette Meridian, lying Southeasterly of P.S.H. No. 6;

EXCEPT the South 500 feet of said Section 9;

AND EXCEPT that portion condemned by the State of Washington by Spokane County Superior Court Cause No. 86200900-5;

AND EXCEPT that portion condemned by the State of Washington by Spokane County Superior Court Cause No. 01204180-5;

Situate in the County of Spokane, State of Washington.

EXHIBIT B

(Description of the SPL Site – Dominant Estate)

That portion of the N1/2 of Section 16, Township 26 North, Range 43 East, W.M., Spokane County, Washington, described as follows:

Beginning at the northwest corner of the NE1/4 of said Section 16; thence S89°43'12"E, along the north line of said NE1/4, 1434.06 feet; thence S00°16'48"W 282.18 feet; thence N89°33'44"W 113.58 feet; thence S77°05'46"W 36.12 feet; thence S52°17'25"W 39.40 feet; thence S14°29'52"W 38.03 feet; thence S01°12'06"W 94.75 feet; thence S07°38'50"W 51.71 feet; thence S15°55'21"W 17.49 feet; thence S38°09'37"W 17.43 feet; thence S50°42'00"W 20.27 feet; thence S59°31'40"W 20.34 feet; thence N88°42'33"W 726.66 feet; thence N01°17'27"E 11.00 feet; thence N88°42'33"W 15.00 feet; thence S01°17'27"W 11.00 feet; thence N88°42'33"W 94.37 feet; thence N87°44'02"W 47.70 feet; thence S82°38'28"W 36.46 feet; thence N05°56'23"W 17.41 feet; thence N52°01'54"W 93.74 feet; thence N16°26'32"W 92.27 feet; thence S88°30'33"E 16.98 feet; thence N01°56'24"W 184.84 feet; thence S83°47'26"W 52.25 feet; thence N11°03'37"W 52.72 feet; thence S81°14'41"W 87.18 feet; thence S18°34'20"W 131.33 feet; thence S00°00'00"W 87.95 feet; thence S88°30'33"E 158.37 feet; thence S16°26'32"E 103.88 feet; thence S45°16'16"E 96.10 feet; thence S82°40'40"W 172.41 feet; thence S54°17'07"W 100.89 feet; thence N88°56'22"W 632.94 feet; thence S83°26'27"W 48.69 feet; thence S88°47'23"W 68.36 feet; thence N88°34'23"W 743.22 feet; thence N03°09'30"W 463.21 feet; thence S89°16'07"E 215.19 feet; thence N38°52'22"E 194.44 feet to a point on the north line of the NW1/4 of said Section 16; thence S89°33'04"E, along said north line, 1193.06 feet to the Point of Beginning;

EXHIBIT C

(Description of Easement Area)

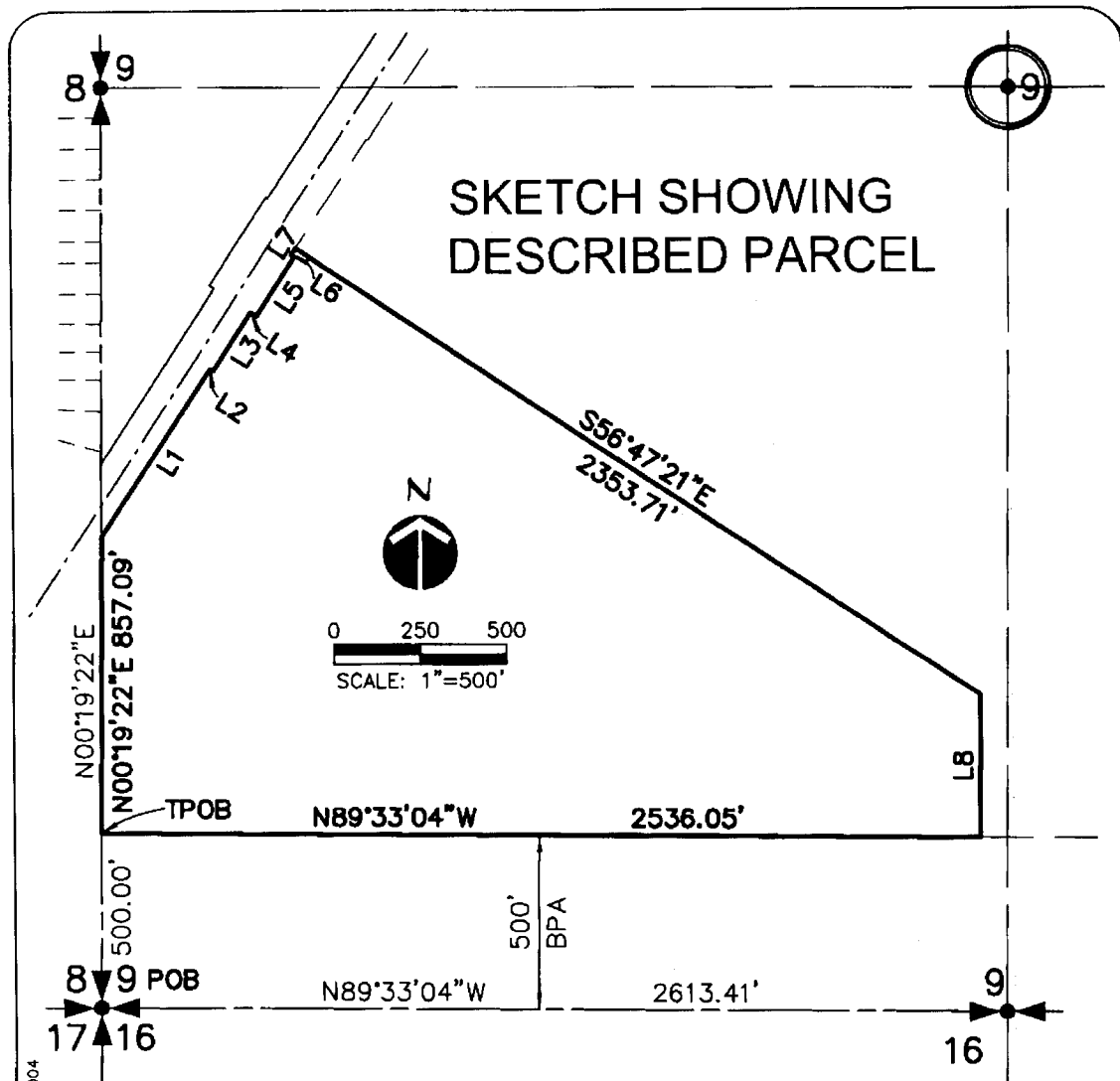
That portion of the SW1/4 of Section 9, Township 26 North, Range 43 East, W.M., Spokane County, Washington, described as follows:

Beginning at the southwest corner of the SW1/4 of said Section 9; thence along the west line of said SW1/4 the following two (2) courses: 1) N00°19'22"E 500.00 feet to the TRUE POINT OF BEGINNING, being the northwest corner of the south 500.00 feet of said SW1/4; 2) continuing N00°19'22"E 857.09 feet to a point on the southeasterly right-of-way line of US Highway 2; thence along said southeasterly right-of-way line the following seven (7) calls: 1) N33°12'39"E 576.53 feet; 2) S56°47'21"E 10.00 feet; 3) N33°12'39"E 200.00 feet; 4) S56°47'21"E 20.00 feet; 5) N33°12'39"E 200.00 feet; 6) N56°47'21"W 10.00 feet; 7) N33°12'39"E 23.47 feet; thence leaving said right-of-way line, S56°47'21"E 2353.71 feet; thence S00°21'19"W 413.48 feet to a point on the north line of the south 500.00 feet of said SW1/4; thence N89°33'04"W, along said north line, 2536.05 feet to the TRUE POINT OF BEGINNING;

containing 64.040 acres.

EXHIBIT C-1

(Depiction of Easement Area)



LEGEND

POB = POINT OF BEGINNING

TPOB = TRUE POINT OF BEGINNING

LINE TABLE		
LINE	BEARING	LENGTH
L1	N33°12'39"E	576.53'
L2	S56°47'21"E	10.00'
L3	N33°12'39"E	200.00'
L4	S56°47'21"E	20.00'
L5	N33°12'39"E	200.00'
L6	N56°47'21"W	10.00'
L7	N33°12'39"E	23.47'
L8	S00°21'19"W	413.48'

AC
 Adams & Clark, Inc.
 1720 W. Fourth Ave.
 Spokane, WA 99204
 (509) 747-4600 F(509) 747-8913
 www.adamsandclark.com
 Project No. 2003-01-064

EXHIBIT E
TO MEAD CONSENT DECREE

MEAD CLEAN-UP COST CAP FINITE INSURANCE POLICY



**AMERICAN INTERNATIONAL
SPECIALTY LINES INSURANCE COMPANY**
(A Capital Stock Company, herein called the Company)
175 Water Street, Twelfth Floor
New York, New York 10038

A Member Company
of American International Group, Inc.

CLEAN-UP COST CAP INSURANCE

DECLARATIONS

NOTICE: THIS IS A CLEAN-UP COSTS INCURRED AND REPORTED POLICY WHICH REQUIRES THAT THE CLEAN-UP OCCUR AND THE CLEAN-UP COSTS BE REPORTED TO THE COMPANY AFTER THE INCEPTION DATE AND PRIOR TO THE APPLICABLE TERMINATION DATE.

POLICY NUMBER: TO BE DETERMINED

Item 1. NAMED INSURED: MEAD SPL SITE CUSTODIAL TRUST

ADDRESS: 606 COLUMBIA NW
SUITE 212
OLYMPIA, WA 98501

Item 2. (a) POLICY INCEPTION DATE: TO BE DETERMINED
(b) POLICY TERMINATION DATE: TO BE DETERMINED
12:01 AM Standard Time at the Address of the Named Insured shown above

Item 3. COVERED LOCATION(S): SEE ATTACHED (AS PER EXHIBIT A OF CONSENT DECREE)

Item 4. LIMIT OF LIABILITY:
(a) Coverage A only: \$18,000,000
(b) Coverage A and B combined: NOT APPLICABLE

Item 5. POLICY PREMIUM: \$4,600,000

Item 6. CLEAN-UP COST PROGRESS REPORT SUBMISSION SCHEDULE: QUARTERLY

Broker: AON RISK SERVICES OF TEXAS, INC.
1330 POST OAK BLVD.
SUITE 900
HOUSTON, TX 77056-3089

By _____
AUTHORIZED REPRESENTATIVE
or countersignature (in states where applicable)

MANUSCRIPT

Page 1 of 1

NOTICE: THIS INSURER IS NOT LICENSED IN THE STATE OF NEW YORK AND IS NOT SUBJECT TO ITS SUPERVISION

AMERICAN INTERNATIONAL SPECIALTY LINES INSURANCE COMPANY

KAISER MEAD ALUMINUM REDUCTION WORKS CLEAN-UP COST CAP INSURANCE POLICY

NOTICE: TERMS APPEARING IN BOLDFACE OTHER THAN SECTION HEADINGS ARE DEFINED IN SECTION VII. OF THE POLICY.

THE COVERAGE PROVIDED BY THIS POLICY IS FOR CLEAN-UP COSTS. THIS POLICY HAS CERTAIN PROVISIONS AND REQUIREMENTS UNIQUE TO IT AND MAY BE DIFFERENT FROM OTHER POLICIES THE NAMED INSURED MAY HAVE PURCHASED.

VARIOUS PROVISIONS THROUGHOUT THIS POLICY RESTRICT OR EXCLUDE COVERAGE. PLEASE READ THE ENTIRE POLICY CAREFULLY.

In consideration of the payment of the premium, in reliance upon the statements in the Declarations and Application made a part hereof and upon the Remedial Plan attached to and made a part hereof, and subject to all terms of the Policy, the Company agrees with the Named Insured as follows:

I. INSURING AGREEMENT

The following coverages in effect only if scheduled in Item 4 of the Declarations:

COVERAGE A - KNOWN POLLUTANTS

The Company will pay on behalf of the Insured, Clean-Up Costs that the Insured incurs for the Clean-Up of Pollutants identified in the Remedial Plan. For this coverage to apply:

1. The Named Insured must timely and routinely report the Clean-Up Costs to the Company prior to the Termination Date in accordance with Section III, RIGHTS OF THE COMPANY AND DUTIES OF THE INSURED IN CONNECTION WITH CLEAN-UP, Paragraph E.; and
2. Clean-Up must occur on or after the Inception Date and before the Termination Date.

II. EXCLUSIONS

This insurance does not apply to Clean-Up Costs arising from or in any way in connection with:

A. BODILY INJURY

Any Bodily Injury.

B. PROPERTY DAMAGE

Any Property Damage.

C. THIRD-PARTY LIABILITY

Any liability to any third-party for any reason whatsoever, other than for Clean-Up Costs otherwise covered under this Policy.

D. FINES, PENALTIES AND MULTIPLIED DAMAGES

Any fines, penalties, punitive damages, exemplary damages, statutory assessments or the multiplied portion of any multiplied damages or any interest payments.

E. NONCOMPLIANCE/CRIMINAL ACTS

The Insured's intentional, willful or deliberate noncompliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, instruction of any

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governmental agency or body, or any criminal acts of any **Insured**; however, this exclusion does not apply to such noncompliance or criminal acts which resulted in the necessity for the **Remedial Plan**.

F. LABOR DISPUTES

Delay due to labor disputes, including, but not limited to, strikes.

G. LICENSE SUSPENSION

Suspension, lapse, modification or cancellation of any license, permit, lease or contract of a **Scheduled Contractor** performing work pursuant to the execution of the **Remedial Plan** which is required by the governmental entity or quasi-governmental entity responsible for supervision of the **Clean-Up**.

H. BANKRUPTCY

Default, bankruptcy or insolvency of any entity(s) involved in the **Clean-Up**, but this exclusion does not apply if the entity(s) involved in the **Clean-Up** has a performance bond issued by a surety company on the Federal Register of the United States Department of the Treasury which in fact provides coverage for the **Clean-Up** at the time of such default, bankruptcy or insolvency. However, this exclusion shall not apply to the Kaiser Aluminum Corporation bankruptcy that is the subject of Case No. 02-10429 (JKF)

I. DENIAL OF ACCESS

Prohibition of access to any property by a third-party, but this exclusion does not apply to any governmental entity or quasi-governmental entity responsible for supervision of the **Clean-Up** unless such prohibition is premised upon a suspension, lapse, modification or cancellation of any license, permit, lease or contract of a **Scheduled Contractor** as set forth in Paragraph G. above.

J. UNREASONABLE DELAY

Unreasonable delay in a **Scheduled Contractor's** performance of **Clean-Up**, if such delay is within the control of the **Scheduled Contractor** performing the **Clean-Up**.

K. FAULTY WORKMANSHIP

Faulty workmanship or defective materials.

L. INTERNAL EXPENSES

Costs, charges or expenses incurred by the **Named Insured** for goods supplied or services performed by employees of the **Named Insured** or its parent, subsidiary or affiliate, except if in response to an emergency or pursuant to **Environmental Laws** that require immediate remediation of **Pollutants**, or unless such costs, charges or expenses are incurred with the prior written approval of the Company in its sole discretion or are incurred by a **Scheduled Contractor**.

M. MODIFICATION OF THE REMEDIAL PLAN

Any modification of the **Remedial Plan** unless the Company has consented to such modification in advance, in writing.

N. PRIOR KNOWLEDGE/NON-DISCLOSURE

Pollutants existing prior to the **Inception Date** and known by any manager or supervisor responsible for environmental affairs or any officer, director or partner of the **Named Insured** and not disclosed in the application for this Policy.

O. WAR

Arising directly or indirectly as a result of or in connection with war commencing after the **Inception Date**, whether declared or not, or any act or condition incident to war commencing after the **Inception Date**. War includes civil war, insurrection, act of foreign enemy, civil commotion, factional civil commotion, military or usurped power, rebellion or revolution.

III. RIGHTS OF THE COMPANY AND DUTIES OF THE INSURED IN CONNECTION WITH CLEAN-UP

- A. The Company shall have the right, but not the duty to review, assess and inspect all aspects of any **Clean-Up** to which the Policy applies. Neither the Company's rights nor its exercise of its rights under this paragraph shall constitute an undertaking to determine or warrant that the **Clean-Up** is safe or in conformity with applicable law.
- B. The **Named Insured** shall take all reasonable and prudent steps to minimize **Clean-Up Costs**, to limit access to the **Covered Location**, and to prevent the spread of further contamination. The **Insured** shall report as soon as practicable that the concentration, disbursement or quantity of any **Pollutant** exceeds the concentration, disbursement or quantity identified by the **Remedial Plan**.
- C. The **Named Insured** shall retain a **Scheduled Contractor** to undertake and complete **Clean-Up**.
- D. The **Named Insured** shall report increased quantity, concentration or disbursement of **Pollutants**, the discovery of **Pollutants** beyond the boundaries of the **Covered Location**, the discovery of **Pollutants** different from those identified in the **Remedial Plan** and all notices hereunder to:

Manager, Pollution Insurance Products Unit
AIG Technical Services, Inc.
Environmental Claims Department
101 Hudson St. 31st Floor
Jersey City, NJ 07302
Fax: 201-631-5051

or such other address(s) as the Company may designate.

- E. The **Named Insured** shall keep detailed records of all **Clean-Up Costs** and provide the Company with completed copies of the attached **Clean-Up Progress Report** at the time intervals prescribed in Item 6 of the Declarations.
- F. To the extent of the **Named Insured's** legal right of access, the **Insured** shall permit the Company to inspect the **Covered Location**, any location identified in the **Remedial Plan**, and all financial records, drawings, plans and specifications concerning the **Clean-Up** or **Clean-Up Costs** as often as the Company chooses after providing reasonable notice.
- G. The **Named Insured** shall cooperate with the Company by providing the Company:
 - 1. Access to all information developed or discovered by the **Named Insured** concerning the **Clean-Up** whether or not deemed by the **Named Insured** to be relevant;
 - 2. Reasonable access to interview any agent, servant or employee of the **Named Insured** or any **Scheduled Contractor** or subcontractor involved in the **Clean-Up**; and
 - 3. Access to any other information or other responses to reasonable requests from the Company concerning the **Clean-Up**.

IV. SALE OR TRANSFER OF THE COVERED LOCATION

In the event that control of the **Remedial Plan** is relinquished by the **Named Insured** or a **Covered Location** is sold or ownership or operational control is transferred by the **Named Insured** prior to the completion of the **Clean-Up** to which this Policy applies, this Policy shall remain in full force and effect, subject to its terms and conditions only if:

1. The Company receives written notification at least forty-five (45) days prior to the effective date of such sale or transfer and consents to the sale or transfer, which consent shall not be unreasonably withheld; and
2. The new owner or operator of the **Covered Location** fully complies with all applicable conditions, duties and obligations set forth in this Policy.

V. LIMIT OF LIABILITY

Regardless of the number of **Insureds** or **Covered Locations** under this Policy, the Company's total liability under this Policy for all **Clean-Up Costs** shall not exceed the Limit of Liability stated in Item 4 of the Declarations

VI. CONDITIONS

- A. **Cancellation** - This Policy may be cancelled by the **Named Insured** with the written consent of the **Governmental Parties** by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This Policy may be canceled by the Company by mailing to the **Named Insured** and the **Governmental Parties**, at the addresses shown in the Policy, written notice stating when, not less than (60) sixty days (10 days for nonpayment of premium) thereafter, such cancellation shall be effective. Cancellation by the Company shall be for one or more of the following reasons only:

1. Nonpayment of premium;
2. Intentional material misrepresentation or fraud by the **Named Insured** which materially affects the insurability of the risk and which has not been cured by the **Named Insured** or a **Governmental Party** within (60) sixty days of notice of the cancellation; or
3. Intentional substantial breach by the **Insured** (which cannot be corrected prior to having a material effect) of the conditions or warranties of this Policy or the application thereto, which materially affects the insurability of the risk.

The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the **Termination Date**. Delivery of such written notice either by the **Named Insured** or by the Company shall be equivalent to mailing.

- B. **Representation and Warranty** - By acceptance of this Policy, the **Named Insured** agrees that the statements in the Declarations and application are accurate, that this Policy is issued in reliance upon the truth of such representations, and that this Policy embodies all agreements existing between the **Named Insured** and the Company or any of its agents relating to this insurance.

- C. **Assignment** - Assignment of interest under this Policy, whether to another individual, corporate entity with the same parent or a third-party corporate entity, shall not bind the Company until its consent is endorsed onto this Policy.

- D. **Subrogation** - In the event of any payment under this Policy, the Company shall be subrogated to all of the **Named Insured's** rights of recovery therefor against any person or organization, and the **Named Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights including, without limitation, assignment of the **Named Insured's** rights against any person or organization responsible for any **Pollutants** on account of which the Company made any payment under this Policy. The **Named Insured** shall do nothing to prejudice such rights. Any recovery as a result of subrogation proceedings arising out of the payment of **Clean-Up Costs** covered under this Policy shall accrue first to the **Insured** to the extent of any payments in excess of the limit of coverage; then to the Company to the extent of its payment under the Policy. Expenses incurred in such subrogation proceedings shall be apportioned among the interested parties in the recovery in the proportion that each interested party's share in the recovery bears to the total recovery. Notwithstanding the foregoing, the Company expressly waives any right of subrogation against claims which are waived by the **Named Insured** pursuant to the terms of the **Consent Decree**. The Company further expressly waives any right of subrogation against recoveries received pursuant to Section 5.C. of the **Consent Decree**.

- E. **Concealment or Fraud** - This entire Policy shall be void as of its inception if, whether before or after **Clean-Up Costs** are incurred, the **Named Insured** has willfully omitted, concealed or misrepresented any fact or circumstance material to the granting of coverage under this Policy, the description of the **Covered Location**, or the interest of the **Named Insured** therein.
- F. **Changes** - Notice to any agent of the Company or knowledge possessed by any such agent or by any other person shall not effect a waiver or a change in any part of this Policy or prevent the Company from asserting any right under the terms of this Policy; or shall the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy.
- G. **Other Insurance** - Where other insurance or surety bonds may be available for **Clean-Up Costs** covered under this Policy, the **Insured** shall promptly, upon request of the Company, provide the Company with copies of all such policies. Regardless of whether other valid and collectible insurance or surety bonds are available to the **Insured** for **Clean-Up Costs** covered by this Policy, this insurance shall be primary.
- H. **Sole Agent** - The **Named Insured** first named in Item 1. of the Declarations shall act on behalf of any **Insured** for the payment or return of premium, receipt and acceptance of any endorsement issued to form a part of this Policy, and giving and receiving notice of cancellation.
- I. **Service Of Suit** - It is agreed that in the event of failure of the Company to pay any amount claimed to be due hereunder, the Company, at the request of the **Insured**, will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this condition constitutes or should be understood to constitute a waiver of the Company's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. It is further agreed that service of process in such suit may be made upon General Counsel, Legal Department, American International Specialty Lines Insurance Company, 70 Pine Street, New York, NY 10270, or his or her representative, and that in any suit instituted against the Company upon this contract, the Company will abide by the final decision of such court or of any appellate court in the event of any appeal.

Further, pursuant to any statute of any state, territory, or district of the United States which makes provision therefor, the Company hereby designates the Superintendent, Commissioner, Director of Insurance, or other officer specified for that purpose in the statute, or his or her successor or successors in office as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the **Insured** or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above named General Counsel as the person to whom the said officer is authorized to mail such process or a true copy thereof.

- J. **Earning of Premium** - The premium stated in Item 5 of the Declarations that is not credited to deposit in the Notional Commutation Account is 100% earned at the **Inception Date** of this Policy. Any cancellation of the Policy by the **Insured** shall not result in a return of that premium.
- K. **Cooperation/Access** - The **Insured** shall cooperate with the Company and offer all reasonable assistance in the evaluation of **Clean-Up Costs** and execution of the **Remedial Plan**. In addition, the **Insured** shall provide the Company with reasonable access to the **Covered Location(s)** for the purpose of evaluating the progress of any **Clean-Up**.
- L. **Replacement of Named Insured** -
1. The **Governmental Parties** shall be additional insureds under this policy subject to the following: Upon written request of the **Oversight Agency** or a **Governmental Party**, acting with the consent of all other **Governmental Parties**, the Company shall replace the entity listed in Item 1. of the Declarations with a **Governmental Party** in the event a **Governmental Party** becomes responsible for the execution of the **Remedial Plan** due to the occurrence of any of the following:
 - a) The exercise of any **Governmental Party's** right, consented to by all **Governmental Parties**, to take over work or obligations as provided in paragraph 14 of the **Consent Decree** with respect to work or obligations that are required under the **Remedial Plan** where compliance with such work or obligations has not been cured as permitted under paragraph 14 of the **Consent Decree**; or

- b) Written request to the Company by the **Named Insured** listed in Item 1. of the Declarations, consented to by all **Governmental Parties** and the Company, to remove the **Named Insured** from the Policy and replace a **Governmental Party** as **Named Insured**.

2. In the event any of the foregoing is satisfied and a **Governmental Party** becomes **Named Insured**:

- a) The **Governmental Party** that becomes the **Named Insured** shall assume all the benefits of the **Named Insured** with respect to the **Clean-Up** of **Pollutants** identified in the **Remedial Plan** and . the **Governmental Party** that becomes the **Named Insured** shall assume all the responsibilities of the **Named Insured** with respect to such coverage including, but not limited to, providing **Clean-Up Cost Progress Reports**, reporting increases in the concentration or disbursement of known **Pollutants**, receiving and accepting endorsements to the Policy and giving and receiving notice of cancellation; provided that each and every obligation and responsibility of the **Governmental Party** as **Named Insured** under the policy would apply only if and to the extent permitted by all laws, and regulations, published policies, and guidelines applicable to the **Governmental Party** and any obligation or responsibility of the **Governmental Party** as **Named Insured** under the Policy that violates, conflicts with, or is inconsistent with any law or regulation, published policies, and guidelines applicable to the **Governmental Party** would be null and void, in each case without prejudice to the effectiveness of the remaining obligations, responsibilities, rights, and benefits applicable to the **Governmental Party** as **Named Insured** under the Policy. However, under no circumstances shall the Policy Term as outlined in Items 2(a) and 2(b) of the Declarations, the Limit of Liability as outlined in Item 4 of the Declarations, the requirement that **Clean-Up** must occur on or after the **Inception Date** and before the **Termination Date** or the calculation of the Balance of the Notional Commutation Account be modified or considered null and void.
- b) The **Governmental Parties** may elect to allow the Company to perform, manage or undertake the **Clean-Up** and to approve a new **Scheduled Contractor**, and in such event, the Company shall have the right but not the duty to perform, manage or undertake **Clean-Up**. Any costs charges or expenses incurred for **Clean-Up** will be deemed **Clean-Up Costs** incurred or expended by the **Named Insured** and shall be applied against the limits of under this Policy. Nothing done by the Company in executing its rights shall result in liability in excess of the Limits of Liability stated in Item 4 of the Declarations.

The **Named Insured** first listed in Item 1. of the Declarations agrees and acknowledges that the Company may rely solely upon the representation of the **Governmental Parties** of such **Named Insured's** failure to perform **Clean-Up** pursuant to the terms of the **Consent Decree**. **Named Insured** first listed in Item 1. of the Declarations hereby releases and holds harmless the Company from any claim, demand, loss or liability asserted by the **Named Insured** arising from the Company's reliance upon such written representation of a **Governmental Party** and replacement of the **Named Insured** pursuant to this paragraph R.

- M. **Authorship** - The Company and the **Named Insureds** agree that this Policy reflects the joint drafting efforts of the Company and the **Named Insureds**. In the event any dispute, disagreement or controversy arises regarding this agreement, the Company and the **Named Insureds** agree that they shall be considered joint authors and no provision shall be interpreted against the Company or the **Named Insureds** because of authorship. The Company and the **Named Insureds** also agree that they are fully informed as to the meaning and intent of this Policy and have been advised by counsel in that regard.
- N. **Arbitration** - The Company agrees and acknowledges that it shall be bound by the dispute resolution provision of the **Consent Decree** with respect to all matters between the Company and the **Named Insured** or any **Governmental Party** under the jurisdiction of the Dispute Resolution provision of the **Consent Decree**.

With respect to any dispute or difference that may arise under or in connection with this Policy, other than those that are under the jurisdiction of the Dispute Resolution provision of the **Consent Decree**, whether arising before or after termination of this Policy, including but not limited to any determination

of the amount of Clean-Up Costs, interpretation of any term or condition, or applicability of any exclusion, the Company or the **Named Insured** may elect to submit the matter to the American Arbitration Association under and in accordance with its then prevailing commercial arbitration rules. The arbitrators shall be chosen in the manner and within the time frames provided by such rules. If permitted under such rules, the arbitrators shall be three disinterested individuals having knowledge of the legal, corporate management, or insurance issues relevant to the matters in-dispute.

Any party may commence such arbitration proceeding which shall be conducted in the state of Washington, and the arbitrators shall give due consideration to the general principles of the law of the state of Washington in the construction and interpretation of the provisions of this Policy.

The written decision of the arbitrators shall set forth its reasoning, shall be provided simultaneously to both parties and shall be binding on them. The arbitrators' award shall not include attorney fees or other costs. Judgment on the award may be entered in any court of competent jurisdiction. Each party shall bear equally the expenses of the arbitration.

- O. The Company will maintain a Notional Commutation Account, the balance of which will be calculated as follows:

1. \$3,161,498 of the Total Policy Premium; plus
2. Funds Growth credited as per below; less
3. 100% of losses paid by the Insurer

Funds Growth: The Notional Commutation Account, if positive, will earn interest at an annual rate equal to the 1 year Constant Maturity Treasury (CMT) yield prevailing on the day premium is paid to the Company. The CMT will be updated annually as of the anniversary date of policy inception.

Commutation: On the fifth and subsequent anniversaries of the Policy Effective Date, and provided that the **Named Insured** has not materially breached any of the conditions of the Policy, the **Named Insured** may elect to commute this contract with written consent of the **Governmental Parties**. If the **Named Insured** so elects, the Company will pay the **Named Insured** an amount equal to 100% of the Notional Commutation Account balance in return for a complete release of liability of all **Clean-Up Costs**, whether known or unknown, from the **Named Insured** and any applicable regulatory agency using this policy as an instrument to comply with financial assurance requirements.

Partial Commutation: Upon written request of the **Named Insured**, with the written consent of the **Governmental Parties**, the Company shall pay to the **Named Insured** \$800,000 in exchange for a complete release by the **Named Insured** of all **Clean-Up Costs**, known or unknown, arising from **Clean-Up** other than **Clean-Up** that is monitored natural attenuation. However, such payment shall only be made provided that the Company, in its reasonable underwriting discretion, determines that **Clean-Up Costs** paid during the Policy Period will not exceed the balance of the Notional Commutation Account after payment of the \$800,000.

- P. **Company Cure** - In the event the **Governmental Parties** provide to the Company notice of alleged violations that would permit take over of the work that is the subject of the **Remedial Plan** by a **Governmental Party** pursuant to Paragraph 14 of the **Consent Decree** the Company may, at its sole discretion, provide sufficient resources for the **Named Insured** to cure the violations or undertake itself or through competent contractors acceptable to the **Governmental Parties** to cure such violations as provided in Paragraph 14 of the **Consent Decree**. The costs, charges, and expenses incurred for **Clean-Up** taken pursuant to this Condition P. shall be **Clean-Up Costs** and shall be paid from, and reduce, the limit of liability of this Policy. Nothing done by the Company in executing such rights shall result in liability for **Clean-Up Costs** in excess of the Limit of Liability of this Policy.

VII. DEFINITIONS

- A. **Bodily Injury** means physical injury, or sickness, disease, mental anguish or emotional distress sustained by any person, including death resulting therefrom.
- B. **Clean-Up** means:

those activities, identified in the Definition of Clean-Up Endorsement, that are performed by a **Scheduled Contractor** in the execution of the **Remedial Plan**.

C. Clean-Up Costs:

1. Clean-Up Costs means

reasonable and necessary costs, charges, and expenses incurred solely for **Clean-Up**, as identified in the Definition of Clean-Up Endorsement.

2. Clean-Up Costs does not include:

(a) Costs, charges or expenses incurred for litigation, arbitration or other form of dispute resolution in any way related to or in connection with **Clean-Up**, including fees of attorneys, consultants, investigators, adjusters and experts, unless otherwise expressly consented to in writing and in advance by the Company and specifically included in the Definition of Clean-Up Endorsement; or

(b) Costs, charges or expenses expended in preparation of the **Remedial Plan**.

C. Clean-Up Cost Progress Reports means reports completed by the **Named Insured**, or any agent agreed upon by the Company, which summarize **Clean-Up** activities performed and anticipated to be performed and the costs and estimated costs of those activities. The form of the reports will be established by the Company and attached to this policy. The reports must be completed by the **Named Insured** and submitted to the Company at the time intervals prescribed in Item 6 of the Declarations.

D. Consent Decree means the Consent Decree Relating to Mead Aluminum Reduction Works entered in the matter of Kaiser Aluminum Corporation, *et. al.*, Case No. 02-10429 (JFK)

E. Covered Location(s) means the site(s) designated in Item 3 of the Declarations.

F. Governmental Parties means the United States Environmental Protection Agency and any successor department or agencies of the United States and the Washington Department of Ecology and any successor departments or agencies of the State of Washington. The Governmental Parties shall be additional insureds under this Policy subject to the terms of Section VI., L.

G. Inception Date means the date set forth in Item 2(a) of the Declarations.

H. Insured means the **Named Insured(s)** and any additional insured(s) subject to Section VI., L.

I. Named Insured means the person or entity designated as such in Item 1 of the Declarations.

J. Natural Resource Damage means physical injury to or destruction of including the resulting loss of value of land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), any State or local government, any foreign government, any Indian tribe, or, if such resources are subject to a trust restriction on alienation, any member of an Indian tribe.

K. Oversight Agency means the **Governmental Party** that is serving as the lead agency overseeing implementation of the **Consent Decree** and Statement of Work selected pursuant to the terms of the **Consent Decree**.

L. Pollutants means wastes and any solid, liquid, gaseous or thermal irritant or contaminant, including, soot, acids, alkalis, or toxic chemicals that were present on, under or migrated from the **Covered Location** prior to the **Inception Date**.

M. Property Damage means:

1. Physical injury to or destruction of real or personal property, including the resulting loss of use or value thereof.
2. Loss of use or value of real or personal property that has not been physically injured or destroyed.
3. **Natural Resource Damage.**

Property Damage does not include **Clean-Up Costs**.

- N. **Remedial Plan** means the documentation identified in the Definition of Remedial Plan Endorsement, and attached thereto and forming a part of the Policy which describes the **Clean-Up** to be undertaken at the **Covered Location**, and, to the extent described therein, at areas beyond the boundaries of the **Covered Location**.
- O. **Scheduled Contractor** means a remediation contractor selected pursuant to the terms of the **Consent Decree** and scheduled on the Definition of Scheduled Contractor Endorsement
- P. **Termination Date** means the earliest of the following:
1. The date set forth in Item 2(b) of the Declarations;
 2. The date on which the Limit of Liability shown in Item 4 of the Declarations is exhausted;
 3. The date the **Insured** receives written approval from the **Oversight Agency** that all tasks required under the **Remedial Plan** have been completed and approved; or
 4. Cancellation of the Policy pursuant to Section VI. CONDITIONS, Paragraph A. Cancellation.

IN WITNESS WHEREOF, the Company has caused this Policy to be signed by its president and secretary and signed on the Declarations page by a duly authorized representative or countersigned in states where applicable.

Elizabeth M. Tuck, Secretary

Kevin Kelley, President

ENDORSEMENT NO.

This endorsement, effective 12:01 AM,

Forms a part of Policy No:

Issued to:

By:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DEFINITION OF CLEAN-UP ENDORSEMENT

It is hereby agreed that for purposes of Section VII. DEFINITIONS, Paragraph B., subparagraph 1., Clean-Up is defined as the following schedule of activities to be performed by a Scheduled Contractor pursuant to the execution of the Remedial Plan with respect to Coverage A - KNOWN POLLUTANTS:

Activities
1. Those activities defined in and necessary to execute the Remedial Plan.

Specimen

ENDORSEMENT NO.

This endorsement, effective 12:01 AM,

Forms a part of Policy No:

Issued to:

By:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DEFINITION OF REMEDIAL PLAN ENDORSEMENT

It is hereby agreed that for purposes of Section VII. DEFINITIONS, Paragraph M. Remedial Plan is defined as the following scheduled and attached documentation:

Document Title	Author	Date
Remedial Action Plan, Kaiser Mead NPL Site, Mead, Washington, attached to and made a part of the Consent Decree	Heller Ehrman White and McAuliffe LLP, Seattle, WA	To Be Determined

Specimen

ENDORSEMENT NO.

This endorsement, effective 12:01 AM,

Forms a part of Policy No:

Issued to:

By:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DEFINITION OF SCHEDULED CONTRACTOR ENDORSEMENT

It is hereby agreed that for purposes of Section VII. DEFINITIONS, Paragraph O. Scheduled Contractor is defined to include only the following:

Contractor/Type	Contractor's Address & Telephone Number
TO BE SCHEDULED AFTER SELECTION PURSUANT TO THE TERMS OF THE POLICY.	

Specimen

ENDORSEMENT NO.

This endorsement, effective 12:01 AM,

Forms a part of Policy No:

Issued to:

By:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUDED CLEAN-UP COSTS, CLEAN-UP AND POLLUTANTS ENDORSEMENT

It is hereby agreed that the following is added to Section II. EXCLUSIONS APPLICABLE TO COVERAGE A AND COVERAGE B:

P. EXCLUDED CLEAN-UP COSTS, CLEAN-UP AND POLLUTANTS

any of the following Scheduled Clean-Up Costs, Clean-Up or Pollutants. The following shall be excluded notwithstanding any modification of the Remedial Plan required by the governmental entity or quasi-governmental entity responsible for supervision of the Clean-Up.

SCHEDULED CLEAN-UP COSTS, CLEAN-UP AND POLLUTANTS

1. Any work associated with Tasks 2, 3, 4, 5, 6 and 7 of the Scope of Work attached to and forming a part of the Consent Decree.
2. Soil assessment, soil remediation or soil disposal.
3. River sediment assessment, or river sediment remediation or river sediment disposal.
4. Offsite wastewater disposal, except for water generated during routine monitoring events.
5. Any costs associated with redevelopment of the property.
6. Any assessment or remediation of bedrock groundwater.
7. Any administrative funds required by the Trust to manage the work outlined in the Remedial Plan.